

EXTRAORDINARY



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DEPARTMENT OF THE PRIME MINISTER.

No. 1120.] [26th June, 1968.

It is hereby notified that the State President has assented to the following Acts which are hereby published for general information.

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No. 61 of 1968: Standards Amendment Act, 1968 ..	93
No. 62 of 1968: Companies Amendment Act, 1968 ..	95
No. 64 of 1968: Building Societies Amendment Act, 1968	99
No. 65 of 1968: Financial Institutions Amendment Act, 1968	113
No. 67 of 1968: Post Office Re-adjustment Act, 1968	129

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1120.] [26 Junie 1968.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wette wat hierby ter algemene inligting gepubliseer word.

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No. 59, 1968.]

ACT

To consolidate the laws providing for the regulation of the production and sale of agricultural products; for the establishment of certain boards in connection therewith; for the establishment of a national mark; for the grading and standardization of agricultural products; and for matters incidental thereto.

(*Afrikaans text signed by the State President.*)
(Assented to 12th June, 1968.)

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SCHEDULE 1.

PART A.
Products.

PART B.
Definitions of or relating to products.

SCHEDULE 2.

SCHEDULE 3.
Laws Repealed.

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. (1) In this Act, unless inconsistent with the context, any definition contained in Part B of Schedule 1 applies generally, and—

- Definitions.**
- (i) "class", in relation to any product, includes any kind or variety of such product; (vi)
 - (ii) "cold storage" means any place or building having a total storage capacity in excess of one thousand cubic feet, where perishable products are stored, kept or preserved at low temperatures; (vii)
 - (iii) "consumers' committee" means the Consumers' Advisory Committee referred to in section 5; (xiv)
 - (iv) "control board" means the board which administers a scheme or is to administer a proposed scheme, as the context may require; (iii)
 - (v) "co-operative society" or "co-operative company" means any co-operative agricultural society or co-operative agricultural company registered under the law relating to co-operative societies and companies; (viii)
 - (vi) "dealing in the course of trade", in relation to any product, includes, except to the extent excluded in any scheme for that product—
 - (a) every purchase and every act performed in the manufacture or processing of that product by any person, if the product so purchased, manufactured or processed, or any quantity thereof, is or is intended to be disposed of by that person for any consideration whatsoever, whether in the form in which it was purchased or into which it was manufactured or processed or in any other form, or is used or is intended to be used in the manufacture or processing of any product or commodity disposed of, or intended to be disposed of, by that person for any consideration whatsoever;
 - (b) every purchase and every act performed in the manufacture, processing or preparation of that product by any person, if the product so purchased, manufactured, processed or prepared or any quantity thereof, is or is intended to be supplied, in any form whatsoever and whether separately or as part of any meal or dish, to any other person not being a member of the first-mentioned person's household or a *bona fide* non-paying guest of himself or of a member of his household; and
 - (c) for the purposes of sections 59 (1) (b), 52 (1) or (2) (b), and 54, the processing, treatment, storage, conveyance or sale of that product on behalf of the owner thereof; (i)
 - (vii) "marketing council" means the National Marketing Council referred to in section 2; (iv)
 - (viii) "Minister" means the Minister of Agriculture; (ix)
 - (ix) "processing", except in the definition of "producer" and in the definitions, in Part B of Schedule 1, of a barley, kaffir-corn, mealie, oat, rye and wheaten product, respectively, includes, in relation to—
 - (a) a cereal, the threshing thereof;
 - (b) groundnuts, peas and beans, the shelling thereof;
 - (c) a slaughter animal, the slaughtering thereof and its separation into meat and by-products;
 - (d) eggs, the removal of the shells thereof; (xvi)
 - (x) "producer" for the purposes of any scheme relating to any product, includes, to the extent defined in the scheme—
 - (a) any person concerned in the production, manufacture or processing of that product;
 - (b) in relation to any quantity of that product which has been acquired from any person as a con-

- sideration for the right to use land on which that person has produced a quantity of that product, or as remuneration for services rendered to a producer of that product, the person who so acquired that quantity;
- (c) in relation to any quantity of that product which is imported into the Republic, the person who so imports that quantity;
- (d) in relation to any cereal obtained by the threshing of any unthreshed quantity thereof acquired from any person, the person by whom or, if such person is not the owner, the person on whose behalf that quantity has been so threshed;
- (e) in relation to a slaughter animal, or any by-product derived from a slaughter animal, the owner of the animal; and
- for the purposes of a scheme for milk, skim milk or cream intended for human consumption in the form of milk, skim milk or cream, or for the manufacture of ice cream or of any other article other than dairy produce as defined in the Dairy Industry Act, 1961 (Act No. 30 of 1961), any person who produces any such product anywhere for sale in the area in respect of which the scheme is proposed or in which it applies, shall be deemed to be a producer of such product in that area; (xi)
- (xi) "product" means any commodity specified in Part A of Schedule 1 or declared to be a product under subsection (2); (x)
- (xii) "regulated product" means a product in respect of which a scheme is in force; (ii)
- (xiii) "scheme" means a set of rules complying with the requirements of this Act in relation to any one or more of the following, namely—
- (a) the regulation of the marketing of any product in the Republic;
- (b) the regulation of the export for sale of any product from the Republic;
- (c) the promotion of the demand for any product whether within or outside the Republic;
- (d) the promotion of research relating to any product, and matters incidental thereto, and includes any proposed scheme; (xiii)
- (xiv) "Secretary" means the Secretary for Agricultural Economics and Marketing; (xii)
- (xv) "sell" includes to export, offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale or to exchange or to dispose of for any consideration whatsoever or to export, transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid, and the words "seller", "selling", "sale" and "sold" have corresponding meanings; (xv)
- (xvi) "specified power" means a power which a scheme may confer on its control board under section 58, 59 (3) (b) or (5), 60, 61, 62, 63 (1), 64, 66, 67, 68, 69, 70, 71, 72, 73, 74, 76 or 77. (v)
- (2) (a) The State President may by proclamation in the *Gazette* declare any commodity to be a product for the purposes of this Act.
- (b) Every proclamation issued under paragraph (a) shall be laid upon the Table of the Senate and of the House of Assembly within fourteen days after the date of publication thereof, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

(3) For the purposes of this Act—

- (a) any product imported into the Republic shall, for the purposes of any scheme relating to such product, be deemed to have been produced in the Republic except in so far as the scheme provides otherwise;
- (b) any person who manufactures or processes any quantity of any product which he has imported into the Republic, shall be deemed to sell that quantity;
- (c) every class of slaughter animal and every kind of meat (except poultry and the meat thereof), every meat product and every by-product derived from slaughter animals, shall be deemed to be a product which is the subject of the Livestock and Meat Industries Act, 1934 (Act No. 48 of 1934);
- (d) every kind of dairy produce as defined in the Dairy Industry Act, 1961 (Act No. 30 of 1961), and dried milk, shall be deemed to be products which are the subject of the Dairy Industry Control Act, 1930 (Act No. 35 of 1930): Provided that the State President may, by proclamation in the *Gazette*, exclude from the operation of the foregoing provisions of this paragraph and of the provisions of the last-mentioned Act, milk, skim milk or cream intended for human consumption in the form of milk, skim milk or cream, or for the manufacture of ice cream or of any other article other than dairy produce as so defined, and amend or withdraw any such proclamation;
- (e) barley, oats, rye and wheat (including any such cereal in unthreshed form) and barley, oaten, rye or wheaten products shall be deemed to be products which are the subject of the Wheat Industry Control Act, 1935 (Act No. 58 of 1935);
- (f) mealies and kaffircorn (including any such cereal in unthreshed form) and mealie and kaffircorn products shall be deemed to be products which are the subject of the Mealie Control Amendment Act, 1935 (Act No. 59 of 1935);
- (g) a product shall be deemed to be the subject of an Act specified in Schedule 2, if the State President has, by proclamation in the *Gazette*, conferred on the board established under the Act in question the power to submit to the Minister a proposed scheme under section 8 (1) relating to that product.

PART 1. THE NATIONAL MARKETING COUNCIL AND THE CONSUMERS' ADVISORY COMMITTEE.

2. (1) There shall be a council to be known as the National Marketing Council which shall consist of a chairman and four other members, all of whom shall be appointed by the State President, and one of whom shall be designated by him as deputy chairman for such period as he may determine: Provided that—

The National Marketing Council.

- (a) either the chairman or the deputy chairman shall be an officer of the Department of Agricultural Economics and Marketing;
 - (b) the State President may, if he deems it expedient to do so, appoint an additional member to the said council.
- (2) The deputy chairman shall exercise all the powers and perform all the duties of the chairman whenever the chairman or, where an acting chairman has been appointed under subsection (7), the acting chairman is unable to function as such.
- (3) The members of the marketing council who are not officers of the Department of Agricultural Economics and Marketing shall be appointed for such period not exceeding four years as the State President may in each case determine,

and at such salary or other remuneration and on such conditions as the State President may from time to time determine.

(4) Every member of the marketing council, other than an officer of the Department of Agricultural Economics and Marketing, shall devote all his time to his duties as such a member, unless it is otherwise provided in the conditions of his appointment.

(5) A member of the marketing council who is an officer of the Department of Agricultural Economics and Marketing shall, subject to the provisions of the law governing the public service, hold office during the State President's pleasure, and may be paid such allowances, in addition to his salary as an officer in the public service, as the State President may determine.

(6) A member of the marketing council whose period of office has expired, shall be eligible for re-appointment.

(7) The State President may from time to time appoint, at such salary or other remuneration and on such conditions as he may from time to time determine, an acting chairman to exercise all the powers and perform all the duties of the chairman while the office of chairman is vacant.

(8) Whenever any member of the marketing council ceases to hold office before the expiration of the period for which he was appointed, the State President may appoint any other person to fill the vacancy until the expiration of that period.

(9) Whenever the Minister is satisfied that any member of the marketing council is prevented by illness, absence or any other cause from performing the duties of his office, the Minister may appoint any other person whom he considers suitable to act as the deputy of that member while he is so prevented, and such deputy shall during the period he so acts, perform the functions of the member in whose stead he has been appointed so to act: Provided that a person appointed as the deputy of the chairman or the acting chairman or the deputy chairman shall perform only the duties of an ordinary member unless the Minister otherwise directs.

3. (1) The meetings of the marketing council shall be held at such times and places as it may determine from time to time. Meetings of the marketing council.

(2) The quorum for a meeting of the marketing council shall be three of the members thereof.

(3) A decision of the majority of the members present at any meeting of the marketing council shall be the decision of the council: Provided that in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

4. (1) The marketing council may—

- (a) on the instructions of the Minister, investigate, or cause to be investigated, marketing conditions in general or in any province, or the conditions relating to any particular product, or ruling on any market;
- (b) examine and report to the Minister on any scheme which he may refer to it;
- (c) draft and submit to the Minister any scheme which it may deem necessary or which the Minister may require it to draft;
- (d) from time to time examine any scheme which is in operation in terms of this Act and report thereon to the Minister and, in connection with such examination, inspect, or cause to be inspected, the books, records, and other documents of the board which administers that scheme;
- (e) assist in the organization of any control board and require any such board to furnish the marketing council with such information as it may deem necessary for the proper performance of its functions;
- (f) attend any meeting of any control board or any committee of a control board and participate in the proceedings at such meeting in an advisory capacity, or authorize one or more of its members, or any officer designated by the Minister, to attend any such meeting and so to participate in the proceedings;
- (g) cause the books of account of any control board to be audited, and consider the report of the person who

Functions, powers and duties of the marketing council.

audited such books of account, and recommend to the Minister any action which it may consider necessary in connection with any such report;

- (h) recommend to the Minister the prohibition or the regulation of the importation of any product into the Republic generally or from any particular country;
- (i) recommend to the Minister the prohibition or the regulation of the exportation of any product from the Republic generally or to any particular country;
- (j) advise the Minister in regard to any matter within his purview under this Act which he may refer to it for its advice;
- (k) perform the duties imposed, and exercise the powers conferred on it in terms of this Act, and perform such other duties as the Minister may from time to time assign to it.

(2) The marketing council may delegate any power conferred on it by this Act, or any duty imposed on it by the Minister, to one or more of its members: Provided that any action taken or decision given by such member or members in pursuance of any such delegation shall be subject to confirmation by the marketing council.

(3) The provisions of sections 8, 10 and 12 of the Board of Trade and Industries Act, 1944 (Act No. 19 of 1944), shall *mutatis mutandis* apply in connection with any investigation by the marketing council.

(4) The marketing council and the Board of Trade and Industries shall at least once every year consult together in regard to the policy to be adopted in connection with the fixing of prices for agricultural products.

(5) The marketing council shall at least once every two years submit to the Minister a report on the operation of schemes which are in operation under this Act.

5. (1) There shall be a committee to be known as the Consumers' Advisory Committee consisting of sixteen members appointed by the Minister, subject to the provisions of this section, to represent the interests of consumers of products. The Consumers' Advisory Committee.

(2) Seven of the members shall be persons selected from among persons whose names have been submitted to the Minister by organizations recognized by him as representative of consumers, and two of the members shall, subject to the provisions of subsection (3), be persons nominated by the United Municipal Executive of South Africa.

(3) (a) Whenever a person is to be nominated by the said United Municipal Executive for appointment as a member of the consumers' committee, the Minister shall by notice in writing call upon the said United Municipal Executive to make the nomination within a period fixed by such notice, and, if the person thereupon nominated is, in the opinion of the Minister, not suitable for such appointment, the Minister may refer such nomination back to the said United Municipal Executive and call upon it to nominate some other person.

(b) If the said United Municipal Executive thereupon again nominates a person who is, in the opinion of the Minister, not suitable for such appointment, or whenever it fails to nominate any person, the Minister may himself nominate any person whom he considers suitable to be a member of the consumers' committee.

(4) The consumers' committee shall, at its first meeting following its appointment, elect one of its members as chairman and shall notify the Minister in writing of the name and address of the person so elected, and whenever the chairman is absent from any meeting, the members present shall elect one of their number to preside at that meeting.

(5) A member of the consumers' committee shall hold office for a period of two years, and shall be paid, out of moneys appropriated by Parliament for the purpose, such allowances as the Minister may determine.

(6) A member of the consumers' committee whose period of office has expired, shall be eligible for re-appointment.

(7) Whenever any member of the consumers' committee ceases to hold office before the expiration of the period for which he was appointed, the committee may appoint any other person to fill the vacancy until the expiration of that period.

(8) The Minister shall assign an officer of the Department of Agricultural Economics and Marketing to the consumers' committee to be its secretary.

6. (1) The Minister shall convene the consumers' committee at least once every four months. Meetings of the consumers' committee.

(2) The chairman shall, at the written request of not less than three members but subject to the approval of the Minister, by notice in writing call a meeting of the consumers' committee for any purpose clearly stated in such request.

(3) The quorum for a meeting of the consumers' committee shall be five of the members thereof.

(4) A decision of the majority of the members present at any meeting of the consumers' committee shall be the decision of the committee: Provided that in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.

7. (1) The consumers' committee shall be an advisory and consultative body. Functions, powers and duties of the consumers' committee.

(2) The Minister may consult the consumers' committee on any matter affecting the interests of consumers of products, and the consumers' committee may make representations to the Minister on any such matter.

(3) The marketing council may consult the consumers' committee on any matter relating to any scheme in so far as it affects the interests of consumers of products, and the consumers' committee may make representations to the marketing council on any such matter.

(4) The consumers' committee may, with the approval of the Minister and subject to such conditions as it may determine, appoint one or more subcommittees from among its members and may invest any such subcommittee with such of its powers as it may deem fit: Provided that the consumers' committee shall not be divested of any power with which it so invests a subcommittee.

(5) The consumers' committee shall once in every calendar year submit to the Minister a report on its activities during the preceding year.

PART 2. SCHEMES.

A. ESTABLISHMENT, AMENDMENT, SUSPENSION AND REVOCATION.

8. (1) (a) Any association of producers, any co-operative society, co-operative company or control board or any board established in terms of an Act specified in Schedule 2, may submit to the Minister in writing a proposed scheme relating to any product or products which the members of the association, society or company concerned produce, or in respect of which the board concerned has been established or is deemed to have been established, as the case may be. Submission of schemes to, and drafting of schemes by, the Minister.

(b) The marketing council or any body which, in the opinion of the Minister, is representative of persons engaged in agricultural pursuits, may submit to the Minister in writing a proposed scheme relating to any product.

(c) The Minister may at any time cause a proposed scheme to be drafted.

(2) For the purposes of this section—

(a) the board established in terms of section 3 of the Livestock and Meat Industries Act, 1934 (Act No. 48 of 1934), shall be deemed to have been established in respect of all kinds of slaughter animals and all

- kinds of meat (except poultry and the meat thereof), meat products and by-products derived from slaughter animals;
- (b) the board established in terms of section 1 of the Dairy Industry Control Act, 1930 (Act No. 35 of 1930), shall be deemed—
- (i) to have been established in respect of every kind of dairy produce as defined in the Dairy Industry Act, 1961 (Act No. 30 of 1961), and dried milk;
 - (ii) not to have been established in respect of any product to which any proclamation in terms of the proviso to section 1 (3) (d) relates;
- (c) the board established in terms of section 1 of the Wheat Industry Control Act, 1935 (Act No. 58 of 1935), shall be deemed to have been established in respect of barley, oats, rye and wheat (including any such cereal in unthreshed form), and in respect of barley, oaten, rye and wheaten products;
- (d) the board established in terms of section 1 of the Mealie Control Amendment Act, 1935 (Act No. 59 of 1935), shall be deemed to have been established in respect of mealies and kaffircorn (including any such cereal in unthreshed form), and in respect of mealie and kaffircorn products; and
- (e) a board established in terms of an Act specified in Schedule 2, or a control board, shall be deemed to have been established in respect of every product in respect of which the State President has by proclamation in the *Gazette* conferred upon the board in question the power to submit to the Minister a proposed scheme under subsection (1) relating to that product.

9. (1) The Minister may, after consultation with the marketing council, reject any proposed scheme submitted to him under section 8 (1) (a) or (b), or approve it provisionally, or refer it back to the association, society, company, board or body concerned for consideration of and report on such modification of the proposed scheme as he may suggest, and, after having received such report (if any) he may reject the proposed scheme or approve it provisionally, either without modification or with such modifications as he may deem expedient.

Investigation, and rejection or acceptance by the Minister, of a proposed scheme.

(2) If the Minister approves a proposed scheme provisionally—

- (a) he shall, if it was not submitted to him by the marketing council, refer the scheme to that council for investigation and report;
- (b) he may, if he deems it necessary, cause the particulars concerning the scheme to be published by notice in the *Gazette* and by such notice invite persons who have an interest in the product to which the scheme relates, to lodge with him in writing within a period stated therein, not being less than four weeks as from the date of the publication in the *Gazette*, any objections to or representations concerning the scheme;
- (c) he may, after consideration of any report on the scheme by the marketing council and, where the scheme has been published under paragraph (b), of any objections or representations lodged with him in pursuance of the relevant notice, accept the scheme without modification or with such modifications as he may deem expedient, if he is satisfied that the scheme or the modified scheme, as the case may be, is practicable and contains adequate provision for the regulation of the marketing of the product to which the scheme relates.

(3) The Minister may refer a proposed scheme which he has had drafted under section 8 (1) (c), to the marketing council for investigation and report and, after having considered such report, may deal with the proposed scheme *mutatis mutandis* in terms of the provisions of subsection (2) (b) and (c).

(4) The marketing council shall, before submitting any report to the Minister in terms of this section in respect of a proposed scheme which confers a specified power on its control board, consult the consumers' committee in regard to that scheme.

(5) The modification of a scheme under subsection (1) or (2) (c) may include the extension or the reduction of the area in which the scheme or any provision thereof is to apply, or the addition of any product to the product to which the scheme relates, or the incorporation in the scheme of any new provision either in addition to or in substitution for any existing provision thereof or, in the case of a modification under subsection (2) (c), in addition to or in substitution for a modification made under subsection (1).

10. (1) (a) Any two or more associations of producers, co-operative societies, co-operative companies or control boards may submit to the Minister in writing a proposed joint scheme relating to all or any two or more of the products which the members of any such association, society or company produce or in respect of which any such board has been established or is deemed to have been established. **Joint schemes.**

(b) The marketing council or any body which, in the opinion of the Minister, is representative of persons engaged in agricultural pursuits, may similarly submit a joint scheme relating to any products.

(c) The Minister may cause such a scheme to be drafted.

(2) The provisions of sections 8 and 9 shall *mutatis mutandis* apply in respect of a scheme so submitted or drafted.

(3) A joint scheme referred to in subsection (1) may provide for the extent to which—

(a) any notices, prohibitions, requirements, decisions or determinations issued, imposed, taken or made under any other scheme wholly or partially superseded by such joint scheme shall continue in force;

(b) any assets and liabilities of the board administering any such other scheme, shall vest in the board established under such joint scheme;

(c) any moneys in any fund established under any such other scheme, shall be transferred to any fund established under the joint scheme.

11. Subject to the provisions of this Act, separate schemes may exist for the same product according to the purpose for which the product is intended to be used or the area in which it is produced. **Separate schemes for the same product.**

12. (1) If the Minister has accepted any proposed scheme, he may— **Publication, or recommendation to the State President of a proposed scheme accepted by the Minister.**

(a) cause particulars thereof to be published by notice in the *Gazette* and in such newspapers as in his opinion will ensure that the particulars of the scheme will be brought to the notice of the producers in the area in which the scheme is intended to apply, and cause a copy of such notice to be displayed at every magistrate's office in that area and at any other place where he deems the publication of the notice desirable, and by such notice invite the producers in that area to attend a meeting or meetings to be held at a time or times and at a place or places specified in the notice, for the purpose of voting for or against the proposed scheme; or

(b) in the case of a proposed scheme—

(i) which has been submitted to him by a board established in terms of an Act specified in Schedule 2;

(ii) which has been submitted to him by a control board administering a scheme which has been in operation for a period of not less than two years;

- (iii) which has been submitted to him in terms of section 10 by two or more such control boards;
- (iv) which has been submitted to him by a control board administering a joint scheme originally submitted under section 10 by two or more such control boards;
- (v) which relates to a product which is the subject of a proclamation in terms of subsection (2) (irrespective of whether or not such proposed scheme has previously been voted on in terms of the provisions of paragraph (a), and irrespective of the result of such voting); or
- (vi) which does not confer a specified power on its control board,

recommend approval thereof to the State President if the Minister is satisfied that the introduction of the scheme in question will be in the interests of producers of the product to which that scheme relates.

(2) The State President may by proclamation in the *Gazette* declare that the provisions of subsection (1) (a) shall not apply in respect of any scheme relating to a product specified in that proclamation.

13. (1) At any meeting contemplated in section 12 (1) (a) the magistrate or assistant magistrate of the district in which the meeting is held, or such other person as the Minister may designate for the purpose, shall preside. Voting on a published scheme at meetings of producers.

(2) The person presiding at any such meeting, or any other person whom the Minister may have appointed for the purpose, shall explain the particulars of the proposed scheme to the meeting and thereafter the person presiding at the meeting shall submit a draft resolution approving of the scheme to the meeting.

(3) No person shall be entitled to vote on the said resolution except a white person of or above the age of twenty-one years—

- (a) who, during the period of three years immediately preceding the date of the meeting concerned, was continuously engaged, in the area in which the proposed scheme is to apply, in the production, for sale on his own account, of the product to which the proposed scheme relates; and
- (b) who, during that period, has produced a quantity of that product not less than a quantity fixed by regulation under section 89 for the purposes of the proposed scheme; and

(c) who has complied with such requirements as may have been prescribed by regulation under that section.

(4) Regulations made for the purposes of subsection (3) may, in the case of a scheme which vests in its control board the powers specified in section 78, provide that only a producer who has, during a period mentioned in such regulations, exported a quantity of the product to which the proposed scheme relates which is not less than the quantity specified in those regulations, shall be entitled to vote on the said resolution.

(5) Any person entitled to vote on the said resolution who desires to vote thereon, shall do so by means of a ballot paper in the form prescribed by regulation, completed in such manner and circumstances and containing such information as may have been likewise prescribed, and shall hand such ballot paper, when duly completed, to the person presiding at the meeting in question.

(6) The person presiding at the meeting shall, as soon as may be after the conclusion of the meeting, forward to the Secretary in Pretoria by registered post, all ballot papers handed to him in terms of subsection (5) by persons who are entitled to vote on the said resolution.

14. (1) The State President may publish any scheme by proclamation in the *Gazette* and declare that it shall come into operation on a date mentioned in such proclamation— Approval and application of a scheme by the State President.

- (a) if the Minister has, in terms of section 12 (1) (b), recommended the approval of such scheme; or
 - (b) where such scheme has been voted on as provided in section 12 (1) (a) and has not been recommended by the Minister as contemplated in paragraph (a), if the State President is satisfied that the producers who voted in favour of the scheme—
 - (i) constitute more than half or, in the case of a scheme which confers a specified power on its control board, not less than three-fifths of the producers who voted on the scheme; and
 - (ii) produced more than half the total quantity of the product to which the scheme relates, which was, during the period of three years immediately preceding the first meeting at which the scheme was submitted to a vote, produced in the area in which the scheme is to apply, by persons who were entitled to vote on the scheme.
- (2) The provisions of any scheme published under subsection (1) shall as from a date specified in the proclamation by which the scheme is published, be binding on the persons to whom and in the area in which those provisions apply.

15. (1) (a) Any association, society, company or board mentioned in section 8 (1) (a) may submit to the Minister a proposal in writing for the amendment of an existing scheme which relates to a product which is produced by the members of the association, society or company concerned or in respect of which the board concerned has been established or is, in terms of section 8 (2), deemed to have been established, as the case may be. Amendment of a scheme.
- (b) The marketing council, the consumers' committee or any body which, in the opinion of the Minister, is representative of persons engaged in agricultural pursuits, may submit to the Minister a proposal in writing for the amendment of any existing scheme.
 - (c) The Minister may cause a proposal for the amendment of any existing scheme to be drafted.
- (2) Such a proposed amendment may provide for—
- (a) the extension or the reduction of the area in which the scheme in question applies;
 - (b) the application of the scheme in any area other than or additional to the area in which it applies;
 - (c) the substitution for, or the addition to, the product to which the scheme relates, of another product: Provided that, if the product is to be substituted or added by virtue of an amendment proposed by an association, society, company or board as aforesaid, it shall be a product which is produced by the members of the association, society or company concerned or in respect of which the board concerned has been established or is deemed to have been established, as aforesaid;
 - (d) the omission of any product to which the scheme relates;
 - (e) the alteration of any other provision of the scheme;
 - (f) the addition thereto of fresh provisions;
 - (g) the substitution of a new scheme for an existing scheme.
- (3) Any such proposal for the amendment of a scheme shall be dealt with and may be brought into operation *mutatis mutandis* as if it were a proposal for a new scheme submitted to or drafted on the direction of the Minister in terms of section 8.
- (4) An amendment of a scheme which provides for a modification of the constitution of the board administering the scheme, may provide for the extension or reduction of the period of office of any existing member of the board, or for the abolition of, or the alteration of the method of nomination for or appointment to, such office.

(5) If an amendment of a scheme provides for the alteration of the method of nomination for or appointment to any such office, the member filling the office in question shall cease to hold it on the date on which the appointment in terms of the amendment takes effect.

(6) The provisions of section 10 (3) shall *mutatis mutandis* apply in respect of any scheme substituted for an existing scheme in terms of subsection (2) (g).

16. (1) Whenever the Minister has reason to believe that any provision of a scheme which is in operation under this Act imposes an undue burden upon producers or consumers of the product to which the scheme relates, or upon any group or number of such producers or consumers, or is contrary to the public interest, he may appoint a committee consisting of not more than three persons to investigate and to report to him on the operation of the scheme in question.

Suspension of any provision of a scheme, and amendment or revocation of the scheme at the request of Parliament.

(2) If, after the receipt of the report of any committee appointed under subsection (1) and of a recommendation by the marketing council, the Minister is satisfied that any such provision does impose an undue burden upon producers or consumers of the product to which the scheme relates, or upon any group or number of such producers or consumers, or is contrary to the public interest, the State President may, by proclamation in the *Gazette*, suspend the provision in question for any period not exceeding six months and the Minister may thereupon repeal any decision taken in pursuance of that provision with effect from such date and subject to such conditions as he may determine.

(3) The Minister shall lay copies of the report of the said committee and of the recommendation of the marketing council upon the Table of the Senate and of the House of Assembly within fourteen days after receipt thereof, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session.

(4) At the request, by resolution, of the Senate and of the House of Assembly, the State President may, by proclamation in the *Gazette*—

- (a) revoke any scheme;
- (b) amend the provisions of any scheme in the manner set forth in such resolution;
- (c) repeal or amend any such proclamation issued in terms of paragraph (b).

17. (1) The Minister may at any time after the expiration of a period of two years as from the date on which a scheme came into operation, call a meeting or meetings of the producers concerned to express their approval or disapproval of the continuance of the scheme.

Revocation of a scheme if the producers disapprove of it.

(2) The provisions of section 13 shall *mutatis mutandis* apply in connection with a meeting called under subsection (1).

(3) The State President may, by proclamation in the *Gazette*, revoke any scheme—

- (a) if revocation thereof has been recommended by the Minister: Provided that the Minister shall not recommend the revocation of a scheme which confers a specified power on its control board, unless the scheme in question was published in pursuance of a recommendation by the Minister under section 12 (1) (b) and the said board has requested that the scheme be revoked; or
- (b) if the producers who voted in favour of the discontinuance of the scheme at a meeting or meetings called under subsection (1)—
 - (i) constitute more than half or, in the case of a scheme which confers a specified power on its control board, not less than three-fifths, of the producers who voted at such meeting or meetings; and
 - (ii) produced more than half the total quantity of the product to which the scheme relates which was

produced in the area in which the scheme applies, during the period of three years immediately preceding the date of the first of such meetings.

B. GENERAL PROVISIONS.

18. A scheme shall specify its name, the product to which it relates and the area or areas in which it applies. Name, product and area to be specified.

19. (1) A scheme may— Provisions relating to the product to which a scheme relates.

(a) include under any class of the product to which it relates any quantity thereof which has been imported into the Republic;

(b) with the concurrence of the administration of any state or territory adjoining the Republic, provide that any provision of the scheme shall, subject to such conditions as may be specified therein, apply to any quantity of any product regulated thereunder, which arrives in any part of the Republic, including the port of Walvis Bay, or in the harbour of Lourenço Marques or in the harbour of Beira, in transit from that state or territory to a destination other than the Republic, in the same manner as if that quantity of the said product had been produced in the Republic.

(2) A scheme may provide that any requirement or prohibition imposed or decision taken by its control board—

(a) which relates to any class of the product to which the scheme relates, including any class defined under section 55, may differ from any such requirement or prohibition or decision which relates to any other class of such product;

(b) shall relate only to a specified class, including any class defined under section 55, of the product to which the scheme relates.

20. A scheme may provide that— Provisions relating to the area in which a scheme applies.

(a) any provision thereof shall apply only in one or more of the areas in which the scheme otherwise applies or only in a specified portion of any area in which the scheme otherwise applies;

(b) any requirement or prohibition imposed or decision taken by its control board—

(i) which relates to any area in which the scheme applies, or any portion of any such area, may differ from any such requirement or prohibition or decision which relates to any other area in which the scheme applies or any other portion of any such area, as the case may be;

(ii) shall apply only to one or more of the areas in which the scheme applies or only to a specified portion of any area in which the scheme applies.

21. (1) A scheme shall define the persons or classes of persons (if any) producing or dealing in the course of trade with any product to which the scheme relates or any class or grade of such product, and to whom any provision of the scheme applies. Provisions relating to the persons to whom a scheme applies.

(2) A scheme may provide that any provision thereof shall apply to any co-operative society or co-operative company which handles any product to which that scheme relates, in the same manner as if the society or company concerned were a producer of that product.

22. Any provision of an Act specified in Schedule 2 (other than a provision relating to evidence or procedure in or the jurisdiction of any court) may be incorporated in any scheme relating to any product which is the subject of the Act in Incorporation in a scheme of provisions of an Act specified in Schedule 2.

question, with such modification of such provision as may be expedient for the more effective carrying out of the scheme.

23. A scheme may provide for a fine not exceeding two hundred rand or for imprisonment for a period not exceeding six months or for both such fine and such imprisonment, by way of a criminal sanction for the purpose of enforcing the provisions of such scheme.

Scheme may provide for penalties.

24. A scheme shall provide for any matter which the State President may by proclamation in the *Gazette* prescribe as a matter in respect of which provision shall be made in any scheme.

Provision to be made for matters prescribed by proclamation.

C. THE CONTROL BOARD.

25. (1) Subject to the provisions of section 26, a scheme shall provide for the establishment of a board to administer the scheme.

Establishment and legal personality of a control board.

(2) A control board shall be a body corporate capable of suing and being sued in its own name, and of performing all such acts as are necessary for or incidental to the carrying out of its objects and powers under the scheme which it administers.

26. (1) A scheme (not being a joint scheme referred to in section 10) which relates to a product in respect of which a control board is deemed to have been established, shall, subject to the provisions of section 27, be administered by that board, subject to such modification of its constitution as may be prescribed in the scheme.

Certain schemes to be administered by existing boards.

(2) A scheme (not being a joint scheme referred to in section 10) which relates to a product which is or is deemed to be the subject of an Act specified in Schedule 2, shall, subject to the provisions of section 27, be administered by the board established in terms of the Act in question: Provided that, subject to the provisions of section 28, the constitution of the said board may be modified by the scheme in such manner as may be approved by the Minister.

(3) A board, the constitution of which has been modified in terms of subsection (2), shall, subject to the provisions of section 80, continue to exercise its functions under the Act in terms of which it has been established, and the members of such board appointed under the said Act shall, except in so far as the scheme otherwise provides, continue to hold office as if no modification in the constitution of the board had been effected.

(4) Whenever any modification contemplated in subsection (2) requires the appointment to the board in question of any member in addition to the sitting members thereof or in substitution for any such sitting member, the said board, as constituted in terms of the relevant Act, shall administer the scheme until the appointment of the first additional or substituted members so required to be appointed.

27. Notwithstanding anything to the contrary contained in this Act, if the Mealie and Kaffir Corn Control Scheme published by Proclamation No. R.113 of 1961 ceases to relate to kaffir-corn and kaffircorn products, any other scheme which thereafter relates to kaffircorn or a kaffircorn product, but not to mealies or any mealie product, may provide for the administration of such other scheme by a control board other than the Mealie Industry Control Board established under section 1 of the Mealie Control Amendment Act, 1935 (Act No. 59 of 1935), and may also provide for the extent to which—

Special provisions regarding a scheme relating to kaffircorn or kaffircorn products

(a) any notices, prohibitions, requirements, decisions, or determinations issued, imposed, taken or made under the said Mealie and Kaffir Corn Control Scheme in respect of kaffircorn or a kaffircorn product shall continue in force;

- (b) any moneys in any fund established under the said Mealie and Kaffir Corn Control Scheme shall be transferred to any fund established under such other scheme.

28. (1) A scheme shall, subject to the provisions of subsections (2), (3) and (4), provide for the appointment to its control board of not more than one officer either in the Department of Agricultural Economics and Marketing or in the Department of Agricultural Technical Services, and of members to represent persons who produce the product to which the scheme relates, and such classes of persons dealing in the course of trade with, or of consumers of, or of persons having any other interest whether directly or indirectly in such product, as the Minister may after consultation with the marketing council determine, and shall prescribe the procedure to be followed in respect of the nomination of such members.

Constitution of a control board.

(2) More than half the total number of members of any such board shall be members appointed to represent persons producing such product: Provided that—

(a) a scheme may provide that only persons who produce the product to which the scheme relates, shall be appointed as members of such board to represent producers of such product;

(b) no person shall be so appointed to represent persons who produce slaughter animals, unless he is engaged in *bona fide* farming operations.

(3) If by any amendment of a scheme any other product is substituted for or added to the product to which the scheme relates and the amendment does not provide for the reconstitution or any consequential modification of the constitution of the board, the members representing the persons producing such lastmentioned product shall, for the purposes of subsection (2), be deemed to represent also persons producing the product so substituted or added.

(4) At least one of the members of any such board on which the consumers of such product are represented shall be nominated by the consumers' committee from among its members: Provided that whenever such member ceases to be a member of the consumers' committee he shall also cease to be a member of such board and another member of the consumers' committee shall be nominated in his place.

(5) A scheme may provide that its control board may co-opt not more than two persons as advisory members of such board.

29. (1) A scheme may provide for the establishment in any area in which the scheme or any provision thereof applies, or in respect of any product or products to which the scheme relates, of one or more committees, to be constituted in such manner as may be specified in the scheme or determined by the control board concerned with the approval of the Minister, for the purpose of advising that board in regard to any matter relating to the administration of the scheme or any provision thereof in the area concerned, or in respect of the product or products concerned, and to which the said board may, on such conditions as the Minister may approve, assign such of its powers under the scheme as it may with the approval of the Minister determine.

Advisory committees to, and other committees of, a control board.

(2) A scheme may empower its control board to appoint, with the consent of the Minister and subject to such conditions as the board may impose, one or more committees from among its members and to invest any such committee with such of its powers as it may deem fit: Provided that the board shall not be divested of any power with which it may invest any such committee.

30. (1) A scheme may empower its control board to determine, with the approval of the Minister, the allowances payable out of the funds of the board to its members or advisory members or the members of a committee established in terms of a provision included in the scheme by virtue of section 29 (1).

Allowances to, and insurance cover for, members of a control board or an advisory committee.

(2) A control board may, with the approval of the Minister, arrange with any insurer for the provision of insurance cover for a member, including an advisory member, of the board, and for a member of any committee established in terms of a provision contained in the relevant scheme by virtue of section 29 (1), in respect of bodily injury, disablement or death resulting solely and directly from an accident occurring in the course of the performance by such member of his duties.

(3) The moneys in a fund, referred to in section 46 (1) (a), of the control board concerned may be utilized for the payment of the premium payable in respect of insurance cover arranged in terms of subsection (2).

31. A scheme shall provide for the calling of meetings of its control board, and shall prescribe the quorum and the procedure at such meetings. Meetings of a control board.

32. (1) Any decision of a control board in respect of which the Minister's approval is required under this Act shall, together with any minority proposal in connection with the matter to which the decision relates, be submitted by such board to the marketing council, which shall transmit such decision and minority proposal (if any) to the Minister together with its report and recommendations thereon. Submission of certain decisions of a control board to the marketing council.

(2) The provisions of subsection (1) shall not apply in respect of sections 8, 9, 10 and 15.

33. A scheme may empower its control board to employ such persons as it may consider necessary for the proper performance of its functions and for the attainment of the objects of the scheme. Employment of persons by a control board.

34. (1) A scheme may empower its control board— Acquisition of property by a control board.

(a) to acquire or hire such property as it may consider necessary for the proper performance of its functions and for the attainment of the objects of the scheme;

(b) to accept money or property given to the board by way of donation, grant or otherwise and to utilize such money or property in such manner as the Minister may approve.

(2) No immovable property shall be acquired under subsection (1) (a) except with the consent of the Minister and on such conditions as he may approve.

35. A scheme may empower its control board to assist, with the approval of the Minister, by grant or loan or otherwise— Assistance by a control board to certain undertakings and research work.

(a) any undertaking for preserving, processing, manufacturing, storing or conditioning any product to which the scheme relates;

(b) research work relating to the improvement, production, manufacture, processing, storing or marketing of any such product.

36. A scheme may empower its control board— Furnishing of information and advice by a control board.

(a) to establish an information service in order to inform producers from time to time about marketing conditions in general or about the condition of any particular market;

(b) to advise the Minister as to—

(i) the conditions, regarding grades, standards of quality, methods of packing, and the marking of any product to which the scheme relates or of any receptacle or cover containing it, subject to which any such product may be sold or imported for sale;

(ii) the prohibition, control or regulation of the importation or export of any such product;

(iii) all matters relating to the marketing or processing of any such product.

37. A scheme may empower its control board to take such steps as may be approved by the Minister for fostering or stimulating the demand for any product to which the scheme relates, whether within or outside the Republic.

Stimulating demand for a regulated product.

38. A scheme may empower its control board to co-operate with any person in doing any act which the board may perform, and to do on behalf of any other similar board any act which that other board may perform.

Co-operation by a control board with any person or other similar board.

39. (1) Notwithstanding anything to the contrary contained in any law, a control board shall be exempt from the duty to obtain any licence and to pay any licence duties or fees in respect of the carrying on by it of any activity contemplated in the Licences Act, 1962 (Act No. 44 of 1962).

Exemption of a control board from certain licensing provisions, and licensing of a control board under Act 42 of 1930.

(2) A control board may apply for a licence in terms of section 2 of the Agricultural Warehouse Act, 1930, and any such licence issued to it may, in addition to relating to the product or products to which the scheme administered by it relates, also relate to agricultural products of a kind or kinds to which such scheme does not relate, and a control board which is an agricultural warehouseman in terms of the said Act may, in respect of the agricultural products referred to in any such licence issued to it, act as an agricultural warehouseman for the purposes of that Act.

40. Every control board which administers a scheme shall, within six months after the end of its financial year, submit to the Minister a report on its activities during its preceding financial year.

Report to Minister by a control board.

D. GENERAL FINANCIAL PROVISIONS.

41. (1) A scheme shall provide for the imposition, with the approval of the Minister, by the control board concerned, on such basis as such board may determine, of a levy on any product to which the scheme relates, or on any such product of a particular class (which may be defined in a manner contemplated in section 55 or otherwise), grade or standard of quality, or on any such product, class, grade or standard of quality thereof produced or sold in a particular area or particular portion of an area in which the scheme applies.

Imposition of a levy on a regulated product.

(2) Such levy shall, if the scheme so provides, be payable only in respect of any unit or quantity of the product which is exported from the Republic or is exported from the Republic to any particular country or territory, or not be payable in respect of any unit or quantity of the product which is so exported or which is imported into the Republic or is imported into the Republic from any particular country or territory.

42. (1) The levy contemplated in section 41 shall be payable—

Persons by whom the levy shall be payable.

- (a) by the producers of the product in question in respect of any unit or quantity thereof sold by them or, in the case of hides and skins, processed on their behalf, or by persons dealing with that product in the course of trade, or by both such producers and such persons; or
- (b) subject to the provisions of subsection (2), in the case of any quantity of that product sold through an agent or a person who on behalf of a local authority controls or manages any place under the jurisdiction of that local authority where produce is habitually sold in public or, in the case of hides and skins, processed by a person, by such agent or person or the person who so processed such hides and skins on behalf of any such producer or any such person dealing with that product in the course of trade.

(2) If a scheme provides for the payment, by an agent or a person who on behalf of a local authority controls or manages any place under the jurisdiction of that local authority where produce is habitually sold in public, or by a processor of hides and skins, of any such levy—

- (a) such scheme shall also provide that the said agent, person or processor may, in the manner prescribed in that scheme, recover any amount so paid or payable from the person on whose behalf the product in question was sold or the hides and skins were processed;
- (b) the board which administers that scheme may pay to any person who on behalf of a local authority controls or manages any such place as aforesaid, for the benefit of that local authority, such commission on any amount paid by that person in respect of the levy in question, as the board may determine.

(3) Provision may be made, in any case where a control board has prohibited producers of the product from selling the product except to or through that board, for such levy to be deducted from the price payable to such producers, or added to the price at which the board disposes of the product to any person.

43. (1) The levy contemplated in section 41— The amount of the levy.
- (a) may be in the form of a fixed amount on, or of a percentage or portion of the selling price of, every unit or quantity of the product in question purchased or sold;
 - (b) may be indicated by means of a formula according to which the amount of such levy shall be calculated on every unit or quantity of that product purchased or sold;
 - (c) may, in so far as it affects producers, be determined on a sliding scale according to the quantity of that product sold by any producer during any period determined by the board.
- (2) Such levy—
- (a) may, in respect of any particular class, grade or standard of quality of the product in question, differ from any such levy in respect of any other class, grade or standard of quality of that product;
 - (b) may, in respect of any unit or quantity of that product which was produced or is sold in any particular area in which the scheme applies or in any particular portion of any such area, differ from any such levy in respect of any unit or quantity of that product which was produced or is sold in any other area in which the scheme applies or in any other portion of any such area, as the case may be;
 - (c) may, in respect of any unit or quantity of that product which is imported into the Republic from any other country or territory, differ from but not exceed any levy in respect of any unit or quantity of that product which is produced in the Republic;
 - (d) may, in respect of any unit or quantity of that product which is imported into the Republic from any country or territory adjoining the Republic, differ from any such levy in respect of any unit or quantity of that product which is imported into the Republic from any other country or territory;
 - (e) may, in respect of any unit or quantity of that product which is exported from the Republic or is exported from the Republic to any particular country or territory, differ from any such levy in respect of any unit or quantity of that product which is not so exported.

44. (1) A scheme may empower its control board to impose, with the approval of the Minister, a special levy on any product Special levy.

to which the scheme relates, or on any such product of a particular class (which may be defined in a manner contemplated in section 55 or otherwise), grade or standard of quality, or on any such product, class, grade or standard of quality thereof produced or sold in a particular area or particular portion of any area in which the scheme applies.

(2) For the purposes of any such special levy the provisions of sections 41, 42 and 43 shall *mutatis mutandis* apply.

45. A scheme may empower its control board to borrow money, with the approval of the Minister, to be utilized for the purpose of attaining the objects of the scheme. Borrowing of money by a control board.

46. (1) A scheme shall provide for the establishment of— Funds of a control board.

(a) a fund or funds to be administered and controlled by its control board, into which shall be paid all moneys received by the board (including any moneys derived from any levy imposed under a power conferred in terms of section 41), and from which all payments by the board shall be made; and

(b) one or more reserve funds into which shall be paid such amounts at the disposal of the board as may from time to time be approved by the Minister or as may after consultation with the board be determined by him after the end of any financial year under the scheme, and shall empower the board to deal with any moneys in any such reserve fund in such manner as may be approved by the Minister.

(2) A scheme may empower its control board to establish a special fund, to pay into that fund the proceeds of any special levy imposed under a power conferred in terms of section 44, and such other amounts at the board's disposal as may be specified in the scheme or approved by the Minister, and to deal with any moneys in that fund in such manner as may be prescribed in the scheme or approved by the Minister.

(3) A scheme may empower its control board to utilize, with the approval of the Minister, any moneys derived from a levy imposed under a power conferred in terms of section 41 for any object which in its opinion will be to the advantage of persons interested in any product to which the scheme relates.

47. Whenever moneys set aside, in accordance with the requirements of a scheme or a decision of a control board, for a purpose specified in that scheme or determined by that board, as the case may be, have not been claimed by the persons who were in terms of that scheme or decision entitled thereto, within a period of three years after the date upon which they became so entitled, such moneys shall be forfeited and shall be dealt with as the Minister may direct. Forfeiture of certain moneys.

48. The Minister may recover the costs incurred from time to time in respect of any action taken by the marketing council under section 4 (1) (b), (d), (e), (g) or (j) in respect of any scheme, or such portion of those costs as he may determine, from the control board of the scheme in question. Recovery of certain costs from a control board.

49. A scheme shall determine the manner in which any assets of its control board remaining after all its debts have been paid, shall be disposed of, and the manner in which any class of persons to whom the scheme applies shall contribute towards making good any deficit which may exist, in the event of the discontinuance of the scheme. Disposal of remaining assets of a control board in event of discontinuance of a scheme.

50. A scheme shall determine the financial year under the scheme. Financial year of scheme.

51. (1) The accounts of a control board shall be audited annually by the Controller and Auditor-General. Auditing of accounts of a control board.

(2) As soon as may be after completion of any such audit the Controller and Auditor-General shall transmit to the Minister, to the marketing council and to the control board concerned a copy of his report in respect of such audit.

E. CONTROL UNDER A SCHEME.

52. (1) A scheme may provide for the keeping of records by any person or class or group of persons producing or dealing in the course of trade with the product to which the scheme relates and the periodical submission to the control board concerned by such person, class or group of persons of such returns as may be specified in the scheme.

Records, returns and information in respect of a regulated product.

(2) A scheme may empower its control board—

- (a) with the approval of the Minister to require any person, or any person belonging to any class or group of persons, or any person other than a person belonging to any class or group of persons, to furnish the board with such information, relating to a product to which the scheme relates or any thing from which any such product is derived or any thing which is derived from any such product, as may be available to such person and as the board may specify;
- (b) with the approval of the Minister to prescribe the records to be kept in connection with such product or thing, the period for which any such record shall be retained and the returns to be rendered in regard to such product or thing to that board by any person, or by any person belonging to any class or group of persons, or by any person other than a person belonging to any class or group of persons, and the times at which and the form and manner in which such returns shall be so rendered.

53. (1) A scheme may empower its control board to appoint, subject to conditions approved by the Minister, such agents as it may consider necessary for the proper performance of its functions.

Appointment of agents by a control board.

(2) Any person whose application for appointment as an agent under subsection (1) has been refused, or whose appointment as an agent under that subsection has been terminated, may, on depositing with the Secretary an amount of thirty rand, appeal against the refusal or termination to the Minister who may dismiss the appeal or, if he is satisfied that the appellant should be appointed as an agent in addition to any other person so appointed or that the appointment of the appellant should not have been terminated, as the case may be, allow the appeal and determine the manner in which the amount so deposited shall be disposed of.

54. A scheme may empower its control board, for the purpose of the enforcement of the provisions of the scheme, to empower any person generally or in any particular case, at all reasonable hours—

Authorization of inspectors by a control board.

- (a) to enter any place occupied by any person who is or is suspected to be a producer of or person dealing in the course of trade with, a product to which the scheme relates or any thing from which such product is derived or any thing which is derived from such product, or any place or vehicle in or on which there is kept or is suspected to be kept any quantity of such product or thing by any person;
- (b) to inspect any such product or thing and to examine all books and documents at any such place or in or on any such vehicle, which are believed on reasonable grounds to relate to such product or thing, and to make copies of or take extracts from such books and documents;
- (c) to demand from the owner or custodian of such product or thing any information concerning such product or thing;
- (d) to demand from the owner or custodian of any such book or document an explanation of any entry therein;

- (e) to seize any books, documents or articles which may afford evidence of the commission of an offence under this Act or any scheme or any regulation made under this Act, or any quantity of such product in respect of which any such offence is suspected to have been committed, and to remove from the place or vehicle in question or to leave at such place or on such vehicle any books, documents or articles or any quantity of such product which has been so seized, and, if he deems fit, to place on any such book, document, article or product or on the container thereof, any identification mark which he may consider necessary;
- (f) to take samples of any such product, including any quantity thereof which has been seized under a power conferred in terms of paragraph (e), and to examine, analyse or grade such samples or cause them to be examined, analysed or graded.

55. The board which administers a scheme may, with the approval of the Minister, define different classes of the product to which the scheme relates—

Classification of a regulated product by a control board.

- (a) according to the premises on which, the manner in which or the conditions under which such product is produced, manufactured, processed, treated or packed;
- (b) according to whether such product has been kept in cold storage or not;
- (c) according to the quantity of such product sold by any person or by the members of any one household during any specified past or future period;
- (d) according to the persons or classes of persons to whom such product is sold;
- (e) according to the purpose for which such product is intended to be used;
- (f) subject to the provisions of section 19 (1) (a), according to whether such product has been produced in or imported into the Republic;
- (g) according to whether such product is intended to be exported from the Republic or to be sold in the Republic;
- (h) according to whether such product is sold to or through such board or is sold otherwise than to or through such board;
- (i) according to whether such product, if it is intended to be exported from the Republic, is so exported by land, or by sea, or by air;
- (j) according to the quantity of any ingredient of, or foreign matter present in, such product.

56. (1) A scheme may empower its control board—

- (a) to buy, at such a price or on such a basis as the Minister may approve, any product to which such scheme relates;
- (b) to treat in such manner as it may deem fit, grade, pack, store, process, adapt for sale, insure, advertise or transport any product which it has bought;
- (c) to sell, whether in its original form or processed wholly or in part, any product which it has bought, at such a price or on such a basis as the Minister may approve, or to withhold any part of it from the market;
- (d) to act as agent for the receipt and sale of any product to which the scheme relates;
- (e) on such conditions as the Minister may approve—
 - (i) to purchase any packing material and containers which producers may require for the marketing of the product to which the scheme relates;
 - (ii) to sell such packing material and containers to producers of that product or to persons who in the course of their business sell such packing material and containers to such producers;

Dealings by a control board with a regulated product or packing material and containers, and, in the case of a scheme relating to any cereal, its power in relation to such cereal in unthreshed form.

(iii) to hire out such packing material and containers to producers of that product.

(2) The control board administering a scheme relating to any cereal, may, for the purposes of such scheme determine, in relation to that cereal, the equivalent in unthreshed form, of any quantity of that cereal in threshed form.

57. (1) A scheme may empower its control board— Conducting of pools.

- (a) to conduct a pool for the sale of any product to which the scheme relates, and to treat in such manner as it may deem fit, grade, pack, store, process, adapt for sale, insure, advertise and transport any product in connection with which it conducts a pool;
- (b) to finance any pool conducted by the board and to make advances to the contributors to the pool.

(2) A scheme which provides for the conduct of a pool for the sale of the product to which the scheme relates, may, in addition to any other provisions which may be included in any such scheme under this Act, also—

- (a) define the time when and the place where delivery of the product to the pool shall be deemed to take place;
- (b) provide that, where any balance in the pool when its accounts are closed is, in the opinion of the board and the Minister, so small that a division thereof among the participants of the pool is not justified, such balance may be dealt with in any manner approved by the Minister;
- (c) provide that the board may with the approval of the Minister transfer any portion of the proceeds in the pool to any other such pool conducted by the board.

58. A scheme may empower its control board to require, with the approval of the Minister, any person dealing in the course of trade with any product to which the scheme relates, to furnish to the board such security for the payment of the purchase price of any quantity of that product purchased from a producer as may be specified in the scheme or prescribed by regulation, and to deal with any security so furnished in such manner as may be so specified or prescribed. Furnishing of security to a control board for the payment of the purchase price of a regulated product.

59. (1) A scheme may provide—

- (a) that no producer of the product to which the scheme relates or no producer belonging to any class or group of producers of that product shall— Registration of producers of, and persons dealing in the course of trade with, a regulated product.
 - (i) sell that product within the Republic or within any area in the Republic defined in the scheme or determined by the control board concerned with the approval of the Minister and notified by the Minister in the *Gazette*, unless he has been registered with the board; or
 - (ii) sell that product within any area other than an area, defined therein or determined by the board, in respect of which he has been registered with the board; or
 - (iii) except for consumption by himself or members of his household, or for the feeding of his livestock, manufacture or process that product or convert it into any other product or commodity or cause it to be so manufactured, processed or converted, unless he has been registered with the board;
- (b) that no person, or no person belonging to any class or group of persons, or no person other than a person belonging to any class or group of persons, shall deal with that product in the course of trade—
 - (i) within the Republic, or within any area in the Republic defined in the scheme or determined by the control board concerned with the approval of the Minister and notified by the Minister in the

Gazette, unless he has been registered with the board; or

- (ii) within any area other than an area, defined in the scheme or determined by the board, in respect of which he has been registered with the board;
- (c) that no producer or person shall be so registered unless he has complied with such requirements as may be prescribed by regulation, and that the control board concerned may grant any such registration for such period as it may determine or as may be specified in the scheme, and may cancel the registration of any such producer or person who has contravened or failed to comply with the said requirements.

(2) For the purpose of any provision included in a scheme by virtue of subsection (1) (a), a member of a co-operative society or co-operative company, who delivers any quantity of a product to that society or company in terms of its regulations, shall be deemed to sell that quantity to that society or company.

(3) A scheme may empower its control board—

- (a) with the approval of the Minister to prescribe the procedure in connection with the consideration of applications for registration in terms of any provision made in a scheme under subsection (1) (a) or (b);
- (b) to refuse any such application, or to grant any such application on such conditions as it may determine or as may be specified in the scheme, and to cancel any such registration if the person registered has contravened or failed to comply with any condition so determined or specified.

(4) A control board, which is by virtue of subsection (3) (b) empowered by the relevant scheme to refuse any application for registration in terms of a provision made in that scheme under paragraph (a) (iii) or (b) of subsection (1), may, in addition to any other reason for which it may lawfully refuse any such application, also refuse it if in its opinion there are—

- (a) in a case arising out of the said paragraph (a) (iii), already sufficient producers engaged in the manufacture or processing of the product in question or the conversion thereof into any other product or commodity;
- (b) in a case arising out of the said paragraph (b), already sufficient persons dealing in the course of trade with the product in question,

to meet the needs of all persons likely to be served by the applicant in the event of his application being granted.

(5) A scheme which empowers its control board to impose conditions in connection with the registration with the board of a producer of, or of a person dealing in the course of trade with, the product to which the scheme relates, may further empower the board to impose, in addition to any other conditions which it may lawfully impose, conditions prescribing the nature of the equipment and the maximum capacity of the plant or machinery which may be installed, or the class, grade or maximum quantity of any product or commodity which may be manufactured or processed or converted or be dealt with in the course of trade by such producer or person, and the manner in which, and the place where or area within which, and the purpose for which, and the classes of persons to whom, that product or any product or commodity derived therefrom may be disposed of.

(6) Any person who is dissatisfied with a decision of a control board in connection with any matter relating to his registration by that board in pursuance of powers vested in it by virtue of subsection (1) (c) or of subsection (3) (b) read with subsections (4) and (5), may within ninety days after he or his representative has been notified of such decision, appeal to the Minister against such decision, and the Minister may, after consideration of any such appeal, and after consultation with the marketing council, confirm, set aside or vary such decision or make such order in connection therewith as he may deem fit.

- 60.** (1) A scheme may empower its control board— Fixing of the price of a regulated product.
- (a) with the approval of the Minister to prohibit, from time to time, any person, or any person belonging to any class or group of persons, or any person other than a person belonging to any class or group of persons, from acquiring, selling or disposing of any quantity of the product to which the scheme relates, or of any class or grade thereof, at a price other than or below or above a price fixed by the board, or calculated in accordance with a basis specified in the scheme or determined by the board, for that product or for such class, grade or quantity thereof, or from selling or disposing of any quantity, class or grade of that product in any country or territory outside the Republic at a price below a price so fixed or calculated therefor;
- (b) with the approval of the Minister, when exercising its powers conferred under paragraph (a)—
- (i) to determine the charges or costs to be included in, added to or deducted from any price referred to in the said paragraph, or the weight to be allowed, in relation to any quantity referred to in that paragraph, for any container of the product in question;
- (ii) to require any person disposing of the product in question, or of any class, grade or quantity thereof, on credit or for an amount exceeding an amount specified in the scheme or determined by the board, to render an invoice containing such particulars as may be so specified or determined;
- (iii) to require any price so fixed to be displayed in such manner and form, and at such places or on such vehicles and by such persons or classes of persons, as may be determined by the board.
- (2) With the approval of the Minister, a control board may, when exercising its powers conferred under subsection (1) (a)—
- (a) fix in respect of any quantity of the product in question or of any class or grade thereof, which is acquired for any purpose or by any class of persons, a price which differs from the price fixed in respect of a quantity of that product, or of that class or grade thereof, acquired for any other purpose or by any other class of persons;
- (b) fix in respect of that product, or of any class or grade thereof, different prices in respect of different quantities or in respect of different times of the year.
- (3) For the purpose of any prohibition under subsection (1) (a), any person who has claimed from any other person in respect of any quantity of a product disposed of by him to such other person, an amount which is not in accordance with the price fixed under the said subsection, shall be deemed to have disposed of that quantity of the product to such other person for the said amount, unless he proves to the satisfaction of the court that the claim was made as a result of a *bona fide* error.

61. (1) A scheme may empower its control board to require, with the approval of the Minister, any person who has purchased from a producer any quantity of the product to which the scheme relates, to pay the purchase price to the board, and to distribute the amounts so paid to it, less such amounts as may be prescribed in the scheme, among producers in proportion to the respective quantities of that product purchased from each of them and in respect of which the purchase price has been so paid to the board. Payment to, and distribution by, a control board of the purchase price of a regulated product.

(2) For the purpose of any requirement under a power conferred by virtue of subsection (1), any quantity of a product which has, in terms of the regulations of any co-operative society or co-operative company, been delivered to that society or com-

pany by a member thereof, shall be deemed to have been sold to that society or company by that member and to have been purchased by that society or company from that member, except in so far as the relevant scheme provides otherwise.

62. (1) A control board may, if authorized thereto by the relevant scheme, and on such conditions or on such basis as may be prescribed therein, conduct a pool for the disposal of any quantity of the product to which that scheme relates, which may in the circumstances described in such scheme be delivered for such disposal to the board or such person as it may determine, by any person who has produced or otherwise acquired that quantity.

Conducting, by a control board, of pool in respect of certain quantities of a regulated product.

(2) The ownership in any quantity of that product so delivered shall, on delivery thereof, vest in the board concerned.

(3) The said board may dispose of any quantity of that product so delivered in such manner as it may deem fit, and shall distribute the proceeds derived from such disposal, less such amounts as may be specified in the scheme or as the board may determine, among the persons who are in terms of the scheme entitled thereto, on such basis as may be prescribed in the scheme.

63. (1) A scheme may empower its control board—

- (a) with the approval of the Minister, to require any person, or any person belonging to any class or group of persons, or any person other than a person belonging to a class or group of persons, who has purchased from a producer any quantity of the product to which the scheme relates, to pay to the board the purchase price of so much of that quantity as has not been delivered for disposal through a pool conducted by the board in terms of section 62, after deduction therefrom of any amounts which may, in terms of the scheme or with the consent of the board, have been paid to or on behalf of that producer; and
- (b) to distribute the sum of the amounts so paid to the board during any period specified in the scheme or determined by the board, together with the proceeds derived by it from the disposal of the quantities of such product delivered for sale through the said pool during that period, less such amounts as may be specified in the scheme or as the board may determine, among producers of such product on such basis as may be prescribed in the scheme or determined by the board.

Payment to and distribution by a control board of the purchase price of any quantity of a regulated product not delivered for disposal through a pool.

(2) The basis of distribution contemplated in subsection (1) (b) may under such circumstances and subject to such modifications and adjustments as may be specified in the scheme or determined by the board, vary—

- (a) in the case of different producers, according to the respective quantities of the product in question disposed of by such producers on any day or during any period, whether by delivery for sale through the pool or in any other manner, or according to the respective quantities of that product so disposed of by such producers during any previous period, and for that purpose a producer who has not during any such period or any portion thereof so disposed of any quantity of that product shall be deemed to have so disposed of such quantity thereof during that period as the board may determine;
- (b) in respect of different quantities of that product so disposed of by any such producer on any day or during any period in excess of a quantity which may be specified in the scheme or determined by the board and which may be fixed by reference to the quantity so disposed of, or (as the case may be) deemed in terms of paragraph (a) to have been so disposed of, by such

producer during any previous period, or in any other manner specified in the scheme or determined by the board;

- (c) according to the class or grade of that product so disposed of by any such producer.

(3) The provisions of section 61 (2) shall *mutatis mutandis* apply in respect of any requirement under a power conferred by virtue of subsection (1).

(4) A scheme may provide that the provisions of paragraphs (b) and (c) of section 57 (2) shall *mutatis mutandis* also apply, to the extent determined by the scheme, in respect of the distribution, as empowered by that scheme by virtue of a requirement of that scheme in terms of this section, of the sum of the amounts and the proceeds referred to in this section, as if the said amounts and proceeds were the proceeds in a pool mentioned in the said section 57 (2).

64. (1) A scheme may empower its control board—

- (a) with the approval of the Minister, to prohibit any producer of the product to which the scheme relates from selling that product or any class, grade, quantity or percentage thereof which the board may from time to time determine, except to or through the board or such persons as may be specified in the scheme or determined by the board;

Prohibition of the sale of a regulated product except to or through a control board or specified persons.

- (b) with the approval of the Minister to grant exemption on the conditions prescribed in the scheme or determined by the board, from the operation of any prohibition imposed by the board under a power conferred by virtue of paragraph (a) and, if a levy referred to in section 41 or a special levy referred to in section 44 is not payable in respect of the class of that product in respect of which any such exemption was granted, also on condition that an amount of money, determined by the board with the approval of the Minister, be paid to the board in respect of any unit or quantity thereof by such persons, at such times and in such manner as the board may determine, but not exceeding the amount of the highest such levy and the highest such special levy payable in respect of an equal unit or quantity of any class of that product which is sold to or through the board.

(2) The provisions of section 61 (2) shall *mutatis mutandis* apply in respect of any prohibition imposed under a power conferred by virtue of subsection (1) and, for the purpose of any such prohibition, any co-operative society or co-operative company which deals on behalf of its members with any product in respect of which the prohibition has been imposed, may be appointed as an agent for the purchase and sale of any quantity of such product, whether produced by its members or by any other person, and any society or company so appointed shall, notwithstanding anything contained in its regulations or in the Co-operative Societies Act, 1939 (Act No. 29 of 1939), be deemed to have all the powers which may be reasonably necessary for the due performance of the functions it is required to exercise in pursuance of such appointment.

(3) Any moneys paid to a control board by virtue of the provisions of subsection (1) (b) shall be dealt with by it only in such manner as the Minister may approve.

(4) The Minister may, by notice in the *Gazette*, authorize a control board which has prohibited producers from selling a product except to or through the board, to refuse at any time during a period mentioned in such notice, to purchase or to take delivery for sale of a class or grade of the product mentioned in the notice or which the board may from time to time determine as it deems fit.

65. (1) A scheme which relates to milk, skim milk or cream intended for human consumption in the form of milk, skim milk or cream, or for the manufacture of ice cream or of any

Special provisions regarding a scheme relating to milk, skim milk or cream.

other article other than dairy produce as defined in the Dairy Industry Act, 1961 (Act No. 30 of 1961), and which empowers its control board to prohibit a producer of such milk, skim milk or cream from selling it except to or through the board or persons dealing with such milk, skim milk or cream in the course of trade, may—

- (a) provide for exemption, under such circumstances and subject to such exceptions and conditions as may be specified in the scheme or determined by the board, from the operation of any such prohibition or any provision of that scheme applicable to persons to whom such prohibition applies, in the case of any class of such producers as may be specified in the scheme or determined by the board;
- (b) provide for prohibiting, under such circumstances and subject to such exceptions and conditions as may be specified in the scheme, any producer of such class from dealing in the course of trade with such milk, skim milk or cream which he has acquired from any person;
- (c) in the case of any producer of such class who deals in the course of trade with any such milk, skim milk or cream which he has acquired from any person—
 - (i) prescribe, subject to such conditions or exceptions as may be specified in the scheme or determined by the board, the maximum quantity of such milk, skim milk or cream (or the maximum quantity thereof as determined on a basis specified in the scheme or determined by the board) which he may acquire from any person on any day or during any period specified in the scheme or determined by the board for the purpose of dealing therewith in the course of trade;
 - (ii) provide for exemption from the operation of any provision of the scheme in so far as it applies to any specified class of persons dealing with such milk, skim milk or cream in the course of trade;
- (d) provide that any quantity of such milk, skim milk or cream which any producer of such class has produced and in respect of which he has been so exempted, shall be deemed to have been purchased by him from the producer thereof;
- (e) provide that the board may, with the approval of the Minister—
 - (i) determine that applications for the registration of producers of such milk, skim milk or cream will be considered by the board during one or more specified months of each calendar year; and
 - (ii) in respect of each month so determined, fix a date as the last date on which such applications shall be received for consideration during that month,
 and may postpone the consideration of all such applications which may be received after a date so fixed until the first ensuing month so determined;
- (f) include provisions applicable only to a producer of such class either in his capacity as a producer of such milk, skim milk or cream or in his capacity as a person dealing with such milk, skim milk or cream in the course of trade.

(2) No provision included in a scheme by virtue of this section shall be held to be invalid on the ground that it applies to a producer of a product a provision which in terms of this Act can be applied only to a person dealing with a product in the course of trade, or that it applies to such a person a provision which in terms of this Act can be applied only to such a producer.

(3) Any reference to milk or cream in any scheme or proposed scheme or proclamation or notice in terms of this Act relating

to milk or cream intended for human consumption in the form of milk or cream or for the manufacture of ice cream or in connection with anything done in respect of any such scheme or proposed scheme, proclamation or notice, shall be deemed to include a reference to sterilized or pasteurized milk or cream, as the case may be, and to have included such a reference at all relevant times since the 18th June, 1951.

66. (1) A scheme which empowers its control board to prohibit the sale of the product to which that scheme relates, except through that board or such persons as it may determine or as may be specified in the scheme, may provide for the conduct by the board or any such person of a pool for the sale of that product on such basis as may be specified in the scheme.

Conducting of a pool in respect of a regulated product which may not be sold except through a control board or specified persons.

(2) The ownership in any quantity of that product delivered for sale through a pool contemplated in subsection (1) shall forthwith vest in the board or person concerned.

(3) Whenever a control board has prohibited producers of a product from selling that product except through the board and the said board conducts a pool for the sale of that product, the said board may, if authorized thereto by the relevant scheme and with the approval of the Minister—

- (a) require each producer to give, during any period determined by the board, notice to the board or to such person or persons as may be determined by the board, of the total quantity of the product in question which he intends to deliver to the board during any future period determined by the board, for sale;
- (b) refuse to accept that quantity of the product, or any part thereof, in respect of which the producer concerned has not given notice in terms of any requirement under paragraph (a);
- (c) where the board considers it equitable to do so, recover for the benefit of the pool from any producer who has delivered to the board a quantity of that product—
 - (i) which differs from the quantity of which such producer so gave notice; or
 - (ii) in respect of which such producer failed so to give notice,
 an amount assessed by the board, with the approval of the Minister, as being approximately equal to the amount of any loss suffered by such pool in consequence of such difference in quantity or such failure to give notice: Provided that any amount recovered per unit or quantity of the product shall not exceed an amount which shall be prescribed in the scheme.

67. (1) A scheme may empower its control board to prohibit from time to time, with the approval of the Minister, any producer from selling any product to which the scheme relates and which he has produced, except such class, grade, quantity or percentage thereof as the board has determined, or except for such purposes as the board has defined.

Prohibition of the sale of a regulated product except a particular class, grade, quantity or percentage thereof, or for a defined purpose.

(2) The provisions of section 61 (2) shall *mutatis mutandis* apply in respect of any prohibition imposed under a power conferred by virtue of subsection (1).

68. A control board which has prohibited any producer from selling any quantity of a product in excess of a quantity determined by that board, may, if authorized thereto by the relevant scheme, and on such conditions as may be prescribed therein, conduct a pool for the sale of any quantities of that product which, in terms of such prohibition, may not be sold by the producers thereof, or which may, in the circumstances described in such scheme, be delivered to it for sale by persons dealing with that product in the course of trade.

Conducting of a pool in respect of a quantity of a regulated product in excess of the quantity which a producer may sell.

69. A scheme may empower its control board to prohibit, with the approval of the Minister, any person from selling the

Prohibition of the sale of a regulated

product to which the scheme relates unless he has acquired it from the board, or from such persons as may be specified in the scheme or determined by the board.

product not acquired from a control board or a specified person.

70. A scheme relating to fruit or vegetables intended for processing, may authorize its control board to prohibit, with the approval of the Minister, any person, or any person belonging to any class or group of persons, or any person other than a person belonging to any class or group of persons, from selling, during a period determined by the board, any quantity of the product in question to any person who carries on business as a processor thereof, or any person who so carries on business, from purchasing any quantity of that product from any person, or any person belonging to any class or group of persons, or any person other than a person belonging to any class or group of persons, during any such period, otherwise than in accordance with a written agreement entered into on or before a date fixed by the board or such later date as the board may in special circumstances allow, of which a certified copy has been submitted to the board on or before that date and in terms whereof provision is made for the purchase and sale of that product at prices determined in accordance with the grade thereof.

Prohibition of the sale of fruit or vegetables intended for processing, otherwise than in accordance with a written agreement.

71. A scheme may empower its control board to prohibit, with the approval of the Minister, any person, or any person belonging to any class or group of persons, or any person other than a person belonging to any class or group of persons, from selling, supplying, delivering or conveying the product to which the scheme relates, on, at or during any day, time or period specified in the prohibition, or on, at or during any day, time or period other than a day, time or period so specified, or more or less frequently than so specified.

Prohibition of the sale, supply, delivery or conveying of a regulated product at specified times.

72. (1) A scheme may empower its control board, to prohibit, with the approval of the Minister, the purchase or sale, by any person, or by any person belonging to any class or group of persons, or by any person other than a person belonging to any class or group of persons, of any product to which the scheme relates or of any class or grade thereof, except under the authority of a permit, the issue of which shall be in the discretion of the board and which may be cancelled by the board if the holder thereof has contravened or failed to comply with any condition specified therein or any provision of the scheme or of any regulation made under this Act.

Prohibition of the purchase or sale of a regulated product except under permit.

(2) Whenever a prohibition is imposed under a provision embodied in a scheme in pursuance of subsection (1) and the board concerned refuses to issue, or cancels, the required permit, the applicant or the holder, as the case may be, may appeal against the refusal or the cancellation to the Minister who may thereupon confirm, set aside or vary the refusal or the cancellation.

73. A scheme may empower its control board—

- (a) with the approval of the Minister to prohibit any person from manufacturing or processing any product to which the scheme relates or any class, grade or quantity thereof on behalf of any other person, except under the authority of a permit which may be issued by the board subject to such conditions as it may deem fit;
- (b) with the approval of the Minister to fix the fees which may be charged by any person for the manufacture or processing of such product on behalf of any other person.

Prohibition of the processing or manufacturing of a regulated product on behalf of any other person except under permit.

74. A scheme may empower its control board to prohibit, with the approval of the Minister, any person, or any person belonging to any class or group of persons, or any person other than a person belonging to any class or group of persons—

- (a) from purchasing, selling, using, treating, manufacturing or processing any product to which the scheme relates or any class, grade or quantity (determined on a basis

Prohibition of the purchase, sale, use, treatment, manufacture or processing of a regulated product for a specified purpose or in a

prescribed in the scheme or otherwise) of such product for any purpose or in any manner determined by the board, or for any purpose or in any manner other than a purpose or manner so determined; or

(b) from placing any such product or any class, grade or quantity (determined on a basis prescribed in the scheme or otherwise) of such product in cold storage, except under the authority of a permit which may be issued by the board subject to the conditions (if any) prescribed in the scheme or determined by the board.

specified manner, or the placing thereof in cold storage, except under permit.

75. (1) A scheme may empower its control board—

- (a) to determine the maximum quantity of any product to which the scheme relates which may, during any week, or during any day or other period determined by the board, be brought into or removed from any area defined by the board;
- (b) to determine the maximum quantity of any such product which may be sold or offered for sale during any week, or during any day or other period determined by the board, at any market or other place specified by the board;
- (c) in the case of a scheme administered by the board established in terms of section 3 of the Livestock and Meat Industries Act, 1934 (Act No. 48 of 1934), to determine the maximum number of any slaughter animals to which the scheme relates which may during any week, or during any day or other period or in any area or at any place determined by the said board, be slaughtered by or on behalf of any person, or to determine the maximum quantity of meat which may during any such period, or in any such area or at any such place, be acquired by such person through the slaughtering by him or on his behalf of any such slaughter animals.

Regulation of quantity, time and place in relation to the movement, sale, processing or acquisition of a regulated product.

(2) The Minister may, for the purpose of rendering effective any decision of a control board under a power conferred in terms of subsection (1), by notice in the *Gazette*—

- (a) prohibit the introduction into, the receipt, processing, sale or acquisition in or removal from any area, market or place, which may at any time be determined by the board under any such power, at any time, on any day or during any period which may be so determined, by any person, or by any person belonging to any class or group of persons, or by any person other than a person belonging to any class or group of persons, of any product to which the relevant scheme relates, except under the authority of a permit issued by the board, or otherwise than in accordance with any conditions prescribed under paragraph (b) (ii); and
- (b) prescribe—
- (i) the procedure to be followed and the forms to be used in an application for a permit referred to in paragraph (a), including the form of any declaration to be made by an applicant for any such permit; and
- (ii) the form of any such permit and the conditions subject to which any such permit may be issued, suspended or cancelled by the board.

(3) No permit referred to in subsection (2) (a) shall be transferable without the permission of the board which issued it, unless it is otherwise stated in the permit.

76. A scheme may empower its control board to recover from a producer who has delivered to the board for sale a larger quantity of a product than he was authorized so to deliver under a permit contemplated in section 72 or 75 (2), an amount assessed, on the surplus so delivered, at a rate determined by the board with the approval of the Minister, and to deal with the amount so recovered in such manner as may be prescribed in the scheme or approved by the Minister.

Penalty for exceeding quantities authorized by certain permits.

77. A scheme may empower its control board to prohibit from time to time, with the approval of the Minister, any person

Prohibition of the introduction of a

from introducing into any area defined by the board, the product to which the scheme relates, except such class or grade thereof as the board has determined or except for such purposes as the board has defined. regulated product into a defined area.

78. A scheme may empower its control board to direct any person, who exports any product to which the scheme relates, to consign or dispose of any quantity of such product which he exports, to or through the board or such persons or agencies (including an agency established by the board) as it may designate, or to consign any quantity of such product which he exports, to a specified overseas market. Directions regarding the export of a product.

79. (1) The Minister shall by notice in the *Gazette* make known— Notification of certain decisions of a control board.

(a) every levy under section 41 or special levy under section 44;

(b) every prohibition under section 60 (1) (a), 64 (1) (a), 67 (1), 69, 70, 71, 72, 73 (a), 74 or 77;

(c) every requirement, determination or fixation of a date under section 60 (1) (b), 61 (1), 65 (1) (e) or 66 (3) (a); and

(d) every fixation of fees under section 73 (b),

and such levy, special levy, prohibition, requirement, determination, or fixation of fees shall come into operation on a date specified in the notice.

(2) Any requirement or determination under section 52 (2) (a) or (b), 59 (3) (a), 63 (1) (a), 75 (1) (a), (b) or (c), or 78, shall be made known by the Minister by notice in the *Gazette*, or shall be communicated by the control board concerned to the person affected thereby by registered post, and shall come into operation on a date specified in the notice or communication.

F. MISCELLANEOUS PROVISIONS.

80. If a scheme published under section 14 (1) relates to a product which is the subject of an Act specified in Schedule 2, all the provisions of the Act in question which are inconsistent with the scheme or which have been incorporated therein, whether with or without modification, shall be suspended during the period during which the scheme is in operation. Suspension of certain provisions of an Act specified in Schedule 2.

81. The Minister shall lay copies of every report submitted to him in terms of section 4 (5), 7 (5) or 40, and of every report relating to the fixing of prices for any product, submitted to him in terms of section 32, upon the Table of the Senate and of the House of Assembly within fourteen days after receipt thereof, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session. Certain reports to be submitted to Parliament.

PART 3. MARKETING MATTERS GENERALLY.

82. The State President may, by proclamation in the *Gazette*, prescribe a national mark for application to any product, specified in the proclamation, in connection with its sale in any area or at any place, and may from time to time repeal or amend any such proclamation. National mark.

83. (1) No person shall apply the national mark prescribed under section 82 to any product not specified in the proclamation prescribing such mark, or to any receptacle containing any such product, or to any product so specified or to the receptacle containing any such product, if such product is sold in any area or at any place not so specified. Sale of products under the national mark.

(2) No person shall without the written permission of the Minister or otherwise than in accordance with any condition prescribed under section 89 (1) (f) apply the said national mark to any product or to the receptacle containing any product.

(3) No person shall apply to any product or to the receptacle containing any product any mark or representation which resembles the said national mark.

84. (1) The State President may, by proclamation in the *Gazette*, prohibit the sale of any product specified in the proclamation, in any area or at any place likewise specified, either generally or for a specified purpose or for a purpose other than a specified purpose, unless it is packed, or marked according to grade, in a manner prescribed by regulation.

Packing and marking of products.

(2) Any such proclamation may exempt from the provisions thereof any quantity of such product in respect of which an officer of the Department of Agricultural Economics and Marketing, specified in the proclamation, has approved in writing that, subject to the conditions determined by him, it be sold as an experiment, and in respect of which such conditions have been complied with.

85. (1) Whenever a national mark or grade has been prescribed in respect of any product, the Minister may designate persons to perform the functions referred to in subsection (2).

Designation and powers of inspectors.

(2) Any person designated under subsection (1) may at all reasonable times enter upon any premises or vehicle in or on which there is or is suspected to be kept, manufactured, produced, processed or treated, for any purpose other than consumption by the owner or members of his household, any product in respect of which a national mark or grade has been prescribed in terms of this Act, and may—

- (a) grade or mark, or direct any person in charge of such premises or vehicle to grade or mark, in accordance with the grades so prescribed, any quantity of that product found in or on such premises or vehicle;
- (b) if he is of the opinion—
 - (i) that any such national mark or a mark or representation resembling any such national mark, which has been applied to any product found in or on such premises or vehicle or to the container thereof, has not been lawfully applied thereto; or
 - (ii) that any quantity of that product found in or on such premises or vehicle has not been lawfully graded or marked,

cancel the said national mark, representation or grade mark, or grade or mark or regrade or remark such product or container in accordance with the requirements prescribed under this Act, or direct the person in charge of the said premises or vehicle to do so;

- (c) take samples of any such product or any material or substance used or suspected to be intended for use in the manufacture, production, processing or treatment thereof, and of any product, material or substance seized in terms of paragraph (g), and examine, analyse or grade such samples or cause them to be examined, analysed or graded, and open any package or container which contains or is suspected to contain any quantity of any such product, material or substance;
- (d) examine all books and documents in or on any such premises or vehicle which are believed, on reasonable grounds, to relate to such product, material or substance, and make copies of or take extracts from such books or documents;
- (e) demand from the owner or custodian of any such book or document an explanation of any entry therein;
- (f) demand from the owner or custodian of such product, material or substance any information concerning such product, material or substance;
- (g) seize any books, documents, products, materials, substances or other articles, which may afford evidence of any contravention of the provisions of any regulation made under this Act;

- (h) inspect any operations carried out in or on any such premises in connection with the manufacture, production, processing or treatment of any such product and may demand from the person in charge of such operations any information regarding such operations;
- (i) direct the owner or custodian of any such product to remove or dispose of any quantity of that product which does not comply with the requirements prescribed under this Act or the regulations issued thereunder, in the manner and within the period prescribed by regulation.

(3) Any such cancellation, grading, marking, regrading, remarking or direction shall be subject to appeal by or on behalf of the owner of such product in the manner prescribed by regulation, and the decision of the person or persons who decide the appeal shall be final.

86. (1) The State President may by proclamation in the *Gazette* prohibit the erection or extension of any facilities for the mechanical handling in bulk or storage in bulk of any product, except under the authority of a permit issued by the Secretary subject to such conditions as he deems fit, including conditions relating to the capacity of such facilities and the place where they shall be located.

Prohibition of erection or extension of facilities for handling or storage in bulk of products.

(2) Any such proclamation may provide that it shall only apply to facilities or extensions which exceed the limits stated in the proclamation.

87. (1) The State President may by proclamation in the *Gazette*—

Prohibition or control of the importation and exportation of products.

- (a) prohibit or regulate the importation into or the exportation from the Republic of any product, or of any class or grade of a product;
- (b) subject to such conditions as may be specified in the proclamation—
 - (i) confer on the Secretary the power to regulate the importation into or the exportation from the Republic of any product, or of any class or grade of a product;
 - (ii) confer on the Secretary or, in the case of a regulated product, either on the Secretary or on the control board concerned, the sole right to import into or export from the Republic such product or any class or grade thereof;
 - (iii) prohibit the importation into or the exportation from the Republic of any regulated product, or of any class or grade of any such product, except by the control board concerned or by any person authorized thereto by permit, the issue of which shall be in the discretion of the board, or otherwise than in accordance with conditions determined by the board.

(2) Whenever any power conferred on the Secretary by proclamation under subsection (1) involves the authority to issue permits, he may delegate such authority to any other persons subject to such conditions as he may determine.

(3) Any person who is dissatisfied with a decision of the control board concerned in connection with any matter relating to his application for a permit referred to in subsection (1) (b) (iii), may appeal against such decision to the Minister who may, after consultation with the marketing council, confirm, set aside or vary such decision or make such order in connection therewith as he may deem fit.

88. The Minister may from time to time by notice in the *Gazette* require every person who, on behalf of a local authority, controls or manages any place, within an area defined in the said notice, where products are habitually sold in public or where livestock is habitually slaughtered, or every person, other than a producer who, in an area so defined, sells, purchases or otherwise deals with any product in his business, to render to the Secretary such periodical returns as may be prescribed in the

Minister may prescribe rendering of certain returns relating to products.

said notice, respectively of any product or of all products brought to any such place for sale or slaughter thereat as aforesaid, or of any product or of all products which such person sold, purchased or otherwise dealt with as aforesaid.

PART 4. REGULATIONS.

89. (1) The State President may make regulations, not inconsistent with the provisions of this Act or of any scheme, prescribing— **Regulations.**

- (a) any matter which may be prescribed by regulation under this Act;
 - (b) the times at which and the manner in which any levy imposed in terms of section 41 or any special levy imposed in terms of section 44 shall be paid;
 - (c) the manner of packing, marking or labelling any regulated product or any product sold under the national mark prescribed under section 82, or any product to which the provisions of any proclamation issued under section 84 apply, the persons by whom the product in question shall be so packed, marked or labelled and the size, description, quality and material of the containers to be used in connection therewith;
 - (d) grades, and the manner of grading, of any product referred to in paragraph (c) and the manner in which any such product shall be treated, prepared or processed for the purposes of such grading;
 - (e) the fees to be paid for the inspection, by a person designated under section 85 (1), of any product in respect of which a national mark or grade has been prescribed, and the persons by whom, the times at which and the manner in which such fees shall be paid;
 - (f) the conditions under which permission to mark any product with the national mark prescribed under section 82 may be granted to any person by the Minister;
 - (g) the time and manner in which an appeal under section 53 (2), 59 (6), 72 (2), 85 (3) or 87 (3) shall be prosecuted, the security (if any) to be lodged in connection with any such appeal (other than an appeal under section 53 (2)), the disposal of any security so lodged, and the officer of the Department of Agricultural Economics and Marketing who shall designate, or may nominate another such officer to designate, the person or persons by whom an appeal under section 85 (3) shall be decided;
 - (h) the methods to be employed and the procedure to be followed when samples are taken under this Act or any scheme or under any regulation made in terms of this section;
 - (i) the methods to be employed and the procedure to be followed in connection with the inspection of any quantity of a product by a person designated under section 85 (1), and the percentage of any such quantity which shall be inspected, and which shall be deemed to be representative of the said quantity.
- (2) Different regulations may be made in respect of—
- (a) different products;
 - (b) products sold under the national mark prescribed under section 82, and products not sold under that mark;
 - (c) products intended to be used for a specified purpose, and products not intended to be used for that purpose;

- (d) products which producers sell to or through a control board or persons designated by a control board, and products which producers sell otherwise than to or through such board or persons;
- (e) products which may be sold as an experiment as provided for in section 84 (2), and products which are not so sold;
- (f) the export of a product to different countries or territories;
- (g) the export of a product by land, or by sea, or by air.

(3) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of two hundred rand.

PART 5. OFFENCES, PENALTIES AND OTHER JUDICIAL MATTERS.

90. (1) Any person who—

- (a) contravenes any prohibition imposed under section 75 (2), 84, 86 or 87, or contravenes or fails to comply with any condition of a permit referred to in section 86; or Offences and penalties.
- (b) contravenes or fails to comply with any provision of section 83; or
- (c) obstructs any person in the lawful exercise of his functions in terms of this Act or any proclamation or regulation issued or scheme in operation thereunder, or who wilfully fails or refuses to make any statement or give any explanation demanded by any such person or makes a false statement or gives a false explanation or causes a false statement to be made or a false explanation to be given to any such person, knowing such statement or explanation to be false; or
- (d) fails to comply with any direction given by any person designated under section 85 (1); or
- (e) without the written permission of a person authorized thereto by the control board concerned, removes or causes to be removed any book, document, article or product seized in terms of any provision included in a scheme by virtue of section 54 (e), from the place where it was left by such person or who tampers with any such book, document, article or product or any identification mark placed thereon by such person; or
- (f) without the written permission of a person authorized thereto by the control board concerned, sells to that board or delivers to that board for sale by that board a quantity of a product of which he is not the producer or which he has acquired from that board; or
- (g) not being entitled to vote on a resolution submitted to a meeting in terms of section 13 (2), or of that section as applied by section 17 (2), votes or attempts to vote thereon; or
- (h) fails to comply with a notice under section 88, or makes a false or incomplete statement in a return prescribed in such notice, knowing that it is false or incomplete,

shall be guilty of an offence and liable on conviction—

- (i) in the case of an offence referred to in paragraph (a), (b) or (f) to a fine not exceeding four hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment;
- (ii) in the case of an offence referred to in paragraph (c), (d) or (e), to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment; and

(iii) in the case of an offence referred to in paragraph (g) or (h), to a fine not exceeding one hundred rand.

(2) Whenever a producer has, in contravention of a prohibition imposed by a control board under a power vested in it in terms of section 60 (1) (a), 64 (1) (a), 67, 70, 71, 72 or 74, sold or disposed of any quantity of a product to any person, the person who acquired that quantity from such producer shall be guilty of an offence and liable to the penalties prescribed in the relevant scheme or in this Act in respect of a contravention of the said prohibition by a producer.

91. (1) (a) Whenever any manager, agent or employee of any producer of, or dealer in the course of trade with, a product, does or omits to do any act which it would be an offence under this Act or any regulations made or scheme published thereunder for such producer or dealer to do or omit to do, the producer concerned or dealer concerned, as the case may be, shall be presumed himself to have done or omitted to do that act, and be liable to be convicted and sentenced in respect thereof, unless it is proved that—

Acts and omissions of managers, agents or employees.

- (i) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or the permission of such producer or dealer; and
- (ii) all reasonable steps were taken by such producer or dealer to prevent any act or omission of the kind in question; and
- (iii) it was not under any condition or circumstance within the scope of the authority or in the course of the employment of the manager, agent or employee to do or to omit to do acts whether lawful or unlawful of the character of the act or omission charged.

(b) The fact that the producer concerned or the dealer concerned, as the case may be, issued instructions forbidding any act or omission of the kind in question shall not, of itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission charged.

(2) Whenever any manager, agent or employee of any such producer or dealer does or omits to do an act which it would be an offence under this Act or any regulation made or scheme published thereunder for the producer or dealer concerned to do or omit to do, the manager, agent or employee concerned shall be liable to be convicted and sentenced in respect thereof as if he were that producer or dealer.

(3) Any such manager, agent or employee may be so convicted and sentenced in addition to the producer or dealer concerned.

92. (1) Whenever any person is convicted of an offence under any scheme or any regulation made in terms of section 89, the court convicting him shall, in addition to any other punishment imposed in respect of that offence—

Additional fines, and forfeitures.

- (a) summarily enquire into and assess the monetary equivalent of any advantage gained by that person in consequence of that offence, and impose on him a fine equal to the amount so assessed or, in default of payment, imprisonment for a period not exceeding six months; and
- (b) if the offence consists of a failure to pay the full amount due by that person in respect of any levy or special levy imposed by a control board by virtue of the provisions of section 41 or 44, forthwith give judgment against that person and in favour of such board for the amount which the court finds is due to such board by that person, and any such judgment may be executed in the same manner as if it had been pronounced in the course of civil proceedings.

(2) Whenever any person is convicted of an offence under section 90 (1) (f), the court convicting him shall summarily enquire into and assess the monetary equivalent of any advantage gained by that person in consequence of that offence, and, in addition to any punishment imposed in respect of that offence, order that person to pay to the control board concerned an amount equal to the amount so assessed, and any such order may be executed in the same manner as if it had been made in the course of civil proceedings.

(3) Whenever any person is convicted of an offence under section 90 (2) the court convicting him shall, in addition to any other punishment imposed in respect of that offence—

(a) if the quantity of the product in respect of which the offence was committed, is in the possession or under the control of the person convicted or has been seized in terms of any provision included in a scheme by virtue of section 54 (e), declare such quantity to be forfeited to the control board concerned; or

(b) if such quantity is not in the possession or under the control of the person convicted and has not been so seized, order that person to pay to the board concerned an amount equal to the value of that quantity calculated at the price fixed by that board in terms of its scheme, according to the class or grade thereof, or if the class or grade of such quantity is not proved to the satisfaction of the court, at the price so fixed for the highest class or grade of such product, and any such order may be executed in the same manner as if it had been made in the course of civil proceedings.

(4) Whenever a producer of a regulated product, or a person dealing with a regulated product in the course of trade, is convicted of a contravention of any provision made in a scheme by virtue of section 59 (1) (a) or (b), and it is proved that he was on at least two other occasions during the twenty-four months immediately preceding the date of such conviction found guilty of the same offence, the court convicting him may, in addition to any other punishment imposed in respect of the offence, if it is satisfied that any equipment, machinery or apparatus, but excluding any vehicle, was used for the purpose of or in connection with the commission of the offence, declare such equipment, machinery or apparatus, or the convicted person's rights thereto, to be forfeited to the State: Provided that such declaration shall not affect any rights which any person other than the convicted person may have to the equipment, machinery or apparatus concerned if it is proved that such other person did not know that it was being used or would be used for the purpose of or in connection with the commission of such offence or that he could not prevent such use.

(5) The provisions of section 360 (4) and (5) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), shall *mutatis mutandis* apply to any forfeiture in terms of subsection (4) of this section.

93. At the trial of any person charged with the commission of an offence under this Act or any scheme or any regulation made under section 89, any statement contained in any return furnished by or on behalf of the accused in terms of this Act or any such scheme or regulation, and any statement or record contained in any book or document kept by the accused, or by any employee or agent of the accused, or which was, at any time, at any place during the occupancy of that place by the accused, shall be admissible in evidence against the accused as an admission of the facts set forth in that statement or record.

Admissibility of certain statements and records.

94. (1) Whenever at the trial of any person charged with the commission of an offence under this Act or any scheme or any regulation made under section 89, the question arises whether or not any person bearing a particular name—

Proof of certain facts by affidavit.

- (a) has furnished particular information or a particular return or other document to a control board within a particular period; or
- (b) has paid a particular levy or a portion thereof to any such board within a particular period; or
- (c) is registered with any such board; or
- (d) has been appointed as an agent of any such board,

a document purporting to be an affidavit made by a person who, in that affidavit, alleges that he is a servant of the control board concerned and that no person bearing the said name has furnished such information or return or other document to the board within such period, or has paid such levy or portion thereof to the board within such period, or is registered with the board, or has been appointed as an agent of the board, as the case may be, shall, on its mere production at such trial by any person, be *prima facie* proof of the facts stated therein.

(2) At any such trial a certificate stating the result of an examination, analysis or grading carried out in pursuance of the provisions of this Act or any scheme or any regulation made under section 89, and purporting to be signed by the person who carried out such examination, analysis or grading, shall be accepted as *prima facie* proof of the facts stated therein.

95. (1) Whenever a scheme or an amendment of a scheme has been published in the *Gazette* in terms of section 14 or of that section read with section 15 (3), as the case may be, or whenever a scheme has been revoked in terms of section 16 or 17, the said scheme, amendment or revocation shall not be vitiated by any act which was performed or by any omission which occurred before the said publication or revocation, unless a court in which the validity of the scheme, amendment or revocation is challenged finds that the said act or omission amounted to an intentional contravention of or noncompliance with any provision of this Act or a regulation made under section 89, and is of the opinion that the act or omission was material.

Presumptions.

(2) If at the trial of any person charged with the commission of an offence under this Act or any scheme or any regulation made under section 89—

- (a) it is proved that a false statement appears in any document signed or any return furnished by such person or on his behalf, it shall be presumed, until the contrary is proved, that he made such statement or caused it to be made, knowing it to be false;
- (b) it is alleged in the charge that a quantity of a particular product was produced in a particular area, it shall be presumed until the contrary is proved, that such quantity of such product was produced in such area.

(3) At the trial of any person charged with the commission of an offence under this Act or any scheme or any regulation made in terms of section 89, any quantity of a product in or upon any place or vehicle at the time a sample of such product is taken pursuant to the provisions of this Act or any such scheme or regulation shall, unless the contrary is proved, be deemed to be of the same class or grade as that sample.

96. No action shall lie against the Railway Administration by reason of its refusal to transport any product, or to accept any product for transport into or from any such area as is referred to in section 75 (1) (a), if the reason for such refusal was the exercise by a control board of the powers conferred on that board by this Act or by any regulations made thereunder.

Railway Administration protected.

97. Notwithstanding anything to the contrary contained in any other law, a magistrate's court shall have jurisdiction to impose any penalty or additional penalty prescribed by this Act or any regulation made or scheme published thereunder, and to make any order of court and give any judgment provided for in this Act. Jurisdiction.

PART 6. MISCELLANEOUS MATTERS.

98. The provisions of this Act and of any scheme introduced thereunder (other than penal provisions) relating to the imposition or payment of any levy or special levy on a product to which this Act applies, shall bind the State. Certain provisions bind the State.

99. The provisions of this Act, in so far as they relate to karakul pelts, shall also apply in the territory of South-West Africa. Application of certain provisions to South-West Africa.

100. (1) Subject to the provisions of subsections (2) and (3), the laws specified in Schedule 3 are hereby repealed to the extent indicated in the third column of that Schedule. Repeal of laws, and savings.

(2) Any appointment, decision, levy, prohibition, requirement, direction, determination, proclamation, regulation or notice, made, taken, imposed, issued, given or published or any other steps taken or any other thing done under a provision of a law repealed by subsection (1), shall be deemed to have been made, taken, imposed, issued, given, published or done under the corresponding provision of this Act.

(3) No licence duty or fee paid by a control board prior to the commencement of the Marketing Amendment Act, 1964 (Act No. 66 of 1964), shall be refunded by virtue of the repeal of that Act by subsection (1).

101. This Act shall be called the Marketing Act, 1968. Short title.

Schedule 1.

PART A. PRODUCTS.

- Item* 1. Barley, kaffircorn, mealies, oats, rye and wheat, including any such cereal in unthreshed form.
Any barley product, kaffircorn product, mealie product, oaten product, rye product or wheaten product, as defined in Part B.
Any commodity which contains a substantial proportion of barley, kaffircorn, mealies, oats, rye or wheat or of a barley, kaffircorn, mealie, oaten, rye or wheaten product.
- Item* 2. Buckwheat, as defined in Part B.
Lucerne; lucerne seed.
- Item* 3. Groundnuts; sunflower seed.
Beans, peas and all other leguminous seeds, and any class thereof, whether dried or otherwise, or whole, ground or split.
- Item* 4. Fruit, including dried fruit and nuts.
Vegetables, including dried vegetables.
Granadillas, as defined in Part B.
- Item* 5. Chicory.
Rooibos tea, as defined in Part B.
- Item* 6. Tobacco.
- Item* 7. Wattle bark; wattle extract.
Sisal, as defined in Part B.
- Item* 8. Cattle; sheep; goats; pigs; poultry.
- Item* 9. Meat, as defined in Part B.
Meat products, as so defined.
By-products derived from slaughter animals, as so defined.
- Item* 10. Wool; mohair.
Crossbred hair, as defined in Part B.
Karakul pelts.
Ostrich feathers.
- Item* 11. Hides; skins.
Cured hides and cured skins, or any part thereof, as defined in Part B.
- Item* 12. Milk, as defined in Part B.
Skim milk; condensed milk.

Dried milk; milk powder; skim milk powder.
 Cream, as defined in Part B.
 Cheese, including process cheese.
 Butter.
 Any butter substitute referred to in the definition of dairy produce in section 1 of the Dairy Industry Act, 1961 (Act No. 30 of 1961).

- Item 13.** Eggs.
 Egg pulp, as defined in Part B.¶
- Item 14.** Honey, as defined in Part B.
 Honey mixtures, as so defined.
 Honey substitutes, as so defined.
- Item 15.** Canned foodstuffs, as defined in Part B.

PART B. DEFINITIONS OF OR RELATING TO PRODUCTS.

- (i) "Barley product" means a commodity derived from the processing of barley or into which barley or any part of barley has been converted. (iv)
- (ii) "Buckwheat" means the seed of the plant *Fagopyrum esculentum*. (ii)
- (iii) "By-product", in relation to a slaughter animal, includes all portions of that animal other than the meat thereof not being meat which has been condemned for human consumption in terms of any law. (xix)
- (iv) "Canned foodstuffs" means the canned product consisting of—
 (a) fruit, fruit pulp, fruit sauce, fruit juice, fruit juice concentrate, fruit jam and conserve, jelly or marmalade;
 (b) vegetables, vegetable puree, vegetable paste, vegetable juice or vegetable concentrate;
 (c) vegetable soup or vegetable soup concentrate;
 (d) spaghetti; or
 (e) mushrooms or mushroom soup, which have been preserved by heat against decay in hermetically sealed containers. (xiii)
- (v) "Cream" includes sterilized cream and pasteurized cream. (xxii)
- (vi) "Crossbred hair" means hair derived from an animal obtained by the crossbreeding of an Angora goat (*Capra angoriensis*) with another member of the goat family. (xvi)
- (vii) "Cured hides" or "cured skins" means hides or skins which have been derived from cattle, sheep or goats of any age and which have been—
 (a) wet-salted, that is to say, not dried after having been treated in the freshly-flayed state with salt with or without an approved preservative or an approved combination of preservatives;
 (b) dry-salted, that is to say, dried artificially or in the sun or shade after having been treated in the freshly-flayed state with salt with or without an approved preservative or an approved combination of preservatives;
 (c) sun-dried, that is to say, dried in the sun without having been treated with salt or an approved preservative or an approved combination of preservatives, or dried in the sun and treated with an approved preservative or an approved combination of preservatives other than salt; or
 (d) shade-dried, that is to say, dried artificially or in the shade without having been treated with salt or an approved preservative or an approved combination of preservatives, or dried artificially or in the shade and treated with an approved preservative or an approved combination of preservatives other than salt. (i)
- (viii) "Egg pulp" means the pulp which is obtained from eggs after the shells have been removed, and includes the yolk and the white or the yolk separately or the white separately. (iii)
- (ix) "Freshly-flayed state", in relation to a cured hide or a cured skin, means the condition after removal of the hide or skin from the carcass and prior to its being subjected to a process of curing or processing. (xx)
- (x) "Granadilla" means the fruit originating from the plant *Passiflora edulis*. (viii)
- (xi) "Honey" means the product which is solely obtained from the honey-bee. (x)
- (xii) "Honey mixture" means—
 (a) honey which is mixed or compounded with any other substance, where such mixture is a foodstuff which resembles honey in appearance; or
 (b) a foodstuff which resembles honey in appearance and of which honey is stated to be an ingredient. (xi)

- (xiii) "Honey substitute" means any syrup or substance prepared synthetically and resembling honey in appearance, flavour, taste or smell. (xii)
- (xiv) "Kaffircorn product" means a commodity derived from the processing of kaffircorn or into which kaffircorn or any part of kaffircorn has been converted. (xiv)
- (xv) "Mealie product" means a commodity derived from the processing of mealies or into which mealies or any part of mealies has been converted. (xviii)
- (xvi) "Meat" means any portions of a slaughter animal ordinarily sold for human consumption, including such other portions thereof as at the time of sale form part of such first-mentioned portions while they so form part thereof. (xxvi)
- (xvii) "Meat product" means a commodity derived from the processing of meat or containing a substantial proportion of meat or of any article derived from the manufacture or processing of meat. (xxvii)
- (xviii) "Milk" includes sterilized milk, as defined in section 1 of the Dairy Industry Act, 1961 (Act No. 30 of 1961), and pasteurized milk. (xvii)
- (xix) "Oaten product" means a commodity derived from the processing of oats or into which oats or any part of oats has been converted. (ix)
- (xx) "Pasteurized cream" means cream which has been obtained from pasteurized milk, or cream which has been subjected to heat treatment to a temperature below the boiling point of cream but sufficiently high to destroy all pathogenic organisms which may be present in such cream. (vi)
- (xxi) "Pasteurized milk" means milk which has been subjected to heat treatment to a temperature below the boiling point of milk but sufficiently high to destroy all pathogenic organisms which may be present in such milk. (v)
- (xxii) "Rooibos tea" means the product obtained from the needlelike leaves and fine stems of the plant *Aspalathus contaminatus* (Thb.), *Druce* (*Borbonia pinifolia* Marl.) or related species after it has been cut, bruised, properly cured and dried. (xxii)
- (xxiii) "Rye product" means a commodity derived from the processing of rye or into which rye or any part of rye has been converted. (xxi)
- (xxiv) "Sisal" means the fibre derived from the leaves of the plant *Agave sisalana* or related species, irrespective of whether or not such fibre has been separated from the leaves. (xxiv)
- (xxv) "Slaughter animals" means cattle, sheep, goats or pigs slaughtered or intended for slaughtering. (xxv)
- (xxvi) "Sterilized cream" means cream which has been subjected to heat treatment whereby such cream is rendered free from viable micro-organisms. (vii)
- (xxvii) "Wheaten product" means a commodity derived from the processing of wheat or into which wheat or any part of wheat has been converted. (xv)

Schedule 2.

- (a) Dairy Industry Control Act, 1930 (Act No. 35 of 1930).
 (b) Livestock and Meat Industries Act, 1934 (Act No. 48 of 1934).
 (c) Tobacco Control Amendment Act, 1935 (Act No. 17 of 1935).
 (d) Wheat Industry Control Act, 1935 (Act No. 58 of 1935).
 (e) Mealie Control Amendment Act, 1935 (Act No. 59 of 1935).

Schedule 3.

LAWS REPEALED.

No. and Year of Law.	Title.	Extent of repeal.
Act No. 26 of 1937.	Marketing Act, 1937	The whole.
Act No. 19 of 1938.	Marketing Amendment Act, 1938	The whole.
Act No. 12 of 1941.	Marketing Amendment Act, 1941	The whole.
Act No. 41 of 1942.	Finance Act, 1942.	Section 11 (1) (b).

No. and Year of Law.	Title.	Extent of repeal.
Act No. 46 of 1945.	Finance Act, 1945	Section 24.
Act No. 50 of 1946.	Marketing Amendment Act, 1946	The whole.
Act No. 45 of 1951.	Marketing Amendment Act, 1951	The whole.
Act No. 37 of 1958.	Finance Act, 1958	Section 12.
Act No. 34 of 1961.	Marketing Amendment Act, 1961	The whole.
Act No. 47 of 1962.	Marketing Amendment Act, 1962	The whole.
Act No. 57 of 1963.	Marketing Amendment Act, 1963	The whole.
Act No. 66 of 1964.	Marketing Amendment Act, 1964	The whole.
Act No. 60 of 1965.	Marketing Amendment Act, 1965	The whole.
Act No. 78 of 1965.	Marketing, Wool and Wool Commission Amendment Act, 1965.	Section 1; in section 5, the word "Marketing"; and, in the long title, the words "the Marketing Act, 1937".
Act No. 30 of 1967.	Marketing Amendment Act, 1967	The whole.
Proclamation No. 289 of 1939.	—	The whole.
Proclamation No. R.44 of 1962.	—	The whole.
Proclamation No. R.201 of 1963.	—	The whole.
Proclamation No. R.16 of 1964.	—	In so far as it declares canned foodstuffs to be a product; and the schedule thereto.
Proclamation No. R.17 of 1964.	—	In so far as it declares rooibos tea to be a product; and the schedule thereto.
Proclamation No. R.190 of 1964.	—	In so far as it declares cured hides and cured skins and any part thereof to be products; and the schedule thereto.
Proclamation No. R.261 of 1964.	—	The whole.
Proclamation No. R.280 of 1964.	—	The whole.
Proclamation No. R.45 of 1965.	—	The whole.
Proclamation No. R.135 of 1966.	—	The whole.
Proclamation No. R.249 of 1966.	—	The whole.