

(22 November 1996 – to date)

[This is the **current** version and applies as from **22 November 1996**, i.e. the date of commencement of the Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996 – **to date**]

CONSERVATION OF AGRICULTURAL RESOURCES ACT 43 OF 1983

(Gazette No. 8673, Notice No. 883, dated 27 April 1983. Commencement date: 1 June 1984. [Proc. No. R74, Gazette No. 9238, dated 25 May 1984])

As amended by:

*Abolition of Racially Based Land Measures Act 108 of 1991 – Government Notice 1490 in Government Gazette 13341, dated 28 June 1991. Commencement date of amending section: 24 June 1994.
(See Agricultural Laws Amendment Proclamation, 1994 - Proc. 116, Gazette No. 15808, dated 24 June 1994)*

Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996 – Government Notice 1888 in Government Gazette 17599, dated 22 November 1996. Commencement date: 22 November 1996.

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

ACT

To provide for control over the utilization of the natural agricultural resources of the Republic in order to promote the conservation of the soil, the water sources and the vegetation and the combating of weeds and invader plants; and for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 21 April 1983.)*

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

1. Definitions

In this Act, unless the context otherwise indicates -

"advisory board" means the Conservation Advisory Board established by section 17;

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In partnership with:

"**authorized person**" means a person authorized in terms of section 4(5);

"**conservation**", in relation to the natural agricultural resources, includes the protection, recovery and reclamation of those resources;

"**conservation committee**" means a conservation committee established under section 15;

"**control measure**" means a control measure referred to section 6;

"**cultivation**", in relation to land, means any act by means of which the topsoil is disturbed mechanically; and "**cultivate**" has a corresponding meaning;

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

"**direction**" means a direction referred to in section 7;

"**Director-General**" means the Director-General: Agriculture;

"**erosion**" means the loss of soil through the action of water, wind, ice or other agents, including the subsidence of soil;

"**executive officer**" means the executive officer referred to in section 4;

"**grazing capacity**", in relation to veld, means the production capacity over the long term of that veld to meet the feed requirements of animals in such a manner that the natural vegetation thereon does not deteriorate or is not destroyed;

"**invader plant**" means a kind of plant which has under section 2(3) been declared an invader plant, and includes the seed of such plant and any vegetative part of such plant which reproduces itself asexually;

"**land user**" means the owner of land, and includes -

- (a) any person who has a personal or real right in respect of any land in his capacity as fiduciary, fideicommissary, servitude holder, possessor, lessee or occupier, irrespective of whether he resides thereon;
- (b) any person who has the right to cut trees or wood on land or to remove trees, wood or other organic material from land; and

(c) in relation to land under the control of a local authority, that local authority,

but not a person who carries on prospecting or mining activities;

"large stock unit" means a unit which consists of the prescribed number of animals of a prescribed kind, type, breed, age or sex, or which is in a prescribed phase of production or is of a prescribed approximate live mass;

"local authority" means any institution or body contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961);

"Minister" means the Minister of Agriculture;

"natural agricultural resources" means the soil, the water sources and the vegetation, excluding weeds and invader plants;

"officer" means an officer or employee as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957);

"owner", in relation to land –

(a) means the person in whom the ownership in that land is vested or in whose name that land is registered, or if that person is absent from the Republic or his whereabouts are unknown, his authorized representative in the Republic;

(b) which in the opinion of the executive officer has been purchased by any person but has not yet been registered in his name, means such purchaser;

(c) which in the opinion of the executive officer is subject to a usufruct, means the usufructuary;

"prescribe" means prescribe by regulation; and **"prescribed"** has a corresponding meaning;

"prospecting or mining activities" means activities which are controlled in terms of the Mines and Works Act, 1956 (Act No. 27 of 1956), and includes the use of land for the purposes of a quarry as defined in section 1 of the Physical Planning Act, 1967 (Act No. 88 of 1967);

"regional conservation committee" means a regional conservation committee established under section 16;

"regional director" means an officer who is in charge of the activities of the department within a particular region determined by the Minister in terms of section 16(1);

"regulation" means a regulation made under this Act;

"scheme" means a scheme established in terms of section 8;

"soil conservation work" means any work which is constructed on land for –

- (a) the prevention of erosion or the conservation of land which is subject to erosion;
- (b) the conservation or improvement of the vegetation or the surface of the soil;
- (c) the drainage of superfluous surface or subterranean water;
- (d) the conservation or reclamation of any water source; or
- (e) the prevention of the silting of dams and the pollution of water,

but not a work which is constructed on land in the course of prospecting or mining activities;

"this Act" includes the regulations;

"urban area" means land which –

- (a) is under the control of a local authority, but excluding any commonage or any other land under such control which in the opinion of the executive officer is utilized for agricultural purposes; or
- (b) is subdivided into erven or lots and public open spaces and streets which are bounded by such erven or lots and public open spaces;

"virgin soil" means land which in the opinion of the executive officer has at no time during the preceding ten years been cultivated;

"water course" means a natural flow path in which run-off water is concentrated and along which it is carried away;

"weed" means any kind of plant which has under section 2(3) been declared a weed, and includes the seed of such plant and any vegetative part of such plant which reproduces itself asexually;

"**weed killer**" means any substance or remedy or any mixture or combination of any substance or remedy which is registered in terms of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), as an agricultural remedy for use in connection with the combating of weeds or invader plants.

2. Application of Act

- (1) Subject to the provisions of subsection (2) this Act shall not apply –
 - (a) to any land which is situated in an urban area;
 - (b)
(Section 2(1)(b) deleted by section 41 of Act 108 of 1991 and by Proc. 116 of 1994)
 - (c) to any land situated within any area declared under section 2 of the Mountain Catchment Areas Act, 1970 (Act No. 63 of 1970), to be a mountain catchment area.
- (2)
 - (a) The provisions of this Act relating to weeds and invader plants shall also apply to land which is situated within an urban area.
 - (b) The provisions of this Act relating to the burning of veld shall not apply to a private forest as defined in section 1 of the Forest Act, 1968 (Act No. 72 of 1968), to which any provision of that Act which relates solely to State forests has been applied under section 2(2) of that Act.
- (3) The Minister may by regulation declare any plant to be a weed or an invader plant for the purposes of this Act, either throughout the Republic or in one or more areas therein.

3. Objects of Act

The objects of this Act are to provide for the conservation of the natural agricultural resources of the Republic by the maintenance of the production potential of land, by the combating and prevention of erosion and weakening or destruction of the water sources, and by the protection of the vegetation and the combating of weeds and invader plants.

4. Executive officer and authorized person

- (1) An officer of the department designated as executive officer by the Minister shall exercise the powers and perform the duties conferred or imposed upon the executive officer by or under this Act or a scheme.

- (2) The executive officer shall exercise his powers and perform his duties with due regard to any instructions issued by the Minister.
- (3)
- (a) Any power conferred or duty imposed upon the executive officer may be exercised or performed by the executive officer personally or by an officer under a delegation or direction or under the control of the executive officer.
 - (b) Any decision made or order given by such officer may be withdrawn or amended by the executive officer and shall, until it has been so withdrawn or amended, except for the purposes of this paragraph, be deemed to have been made or given by the executive officer.
- (4)
- (a) Notwithstanding the provisions of subsection (3)(a) the executive officer may in writing authorize an employee of a local authority, or an employee of an irrigation board established by section 79 of the Water Act, 1956 (Act No. 54 of 1956), for a particular irrigation district as defined in that Act, to exercise such powers or perform such duties of the executive officer in terms of this Act as may be specified in such authority, in relation to the combating of weeds and invader plants in the area of jurisdiction of the local authority concerned, or in the irrigation district concerned, as the case may be.
 - (b) An authority under the definition of "officer" in section 13 or the Weeds Act, 1937 (Act No. 42 of 1937), which has prior to the commencement of this section been granted to an employee of a local authority or an irrigation board mentioned in paragraph (a) of this subsection and is at the said commencement still in force, shall be deemed to be an authorization granted in terms of that paragraph.
 - (c) The provisions of subsection (3)(b) shall *mutatis mutandis* apply to any decision made or order given by any person who is authorized in terms of paragraph (a) of this subsection or is deemed in terms of paragraph (b) of this subsection to be so authorized.
- (5) If the Minister deems it expedient for the purposes of the exercise of a power or the performance of a duty conferred or imposed upon himself or the executive officer by or under this Act or a scheme, he may authorize any person who is not an officer to exercise such powers or to perform such duties as the Minister or the executive officer, as the case may be, may grant to or impose upon that person.

5. Prohibition of the spreading of weeds

- (1) No person shall-

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- (a) sell, agree to sell or offer, advertise, keep, exhibit, transmit, send, convey or deliver for sale, or exchange for anything or dispose of to any person in any manner for a consideration, any weed; or
- (b) in any other manner whatsoever disperse or cause or permit the dispersal of any weed from any place in the Republic to any other place in the Republic.

(2)

- (a) If seed, grain, hay or any other agricultural product contains any weed the executive officer may issue an order that the seed, grain, hay or other agricultural product concerned –
 - (i) be returned to the place of origin thereof;
 - (ii) be forwarded to a specified place in order to have the weed concerned removed therefrom; or
 - (iii) be destroyed in such manner as he may determine.
- (b) A copy of any such order shall be served on the owner of the seed, grain, hay or other agricultural product concerned: Provided that a copy of an order referred to in subparagraph (i) of paragraph (a) may be served on the person who has the control of that seed, grain, hay or other agricultural product instead of on the owner thereof
- (c) Any such order shall be executed by the person on whom it has been served within the period specified therein, failing which the executive officer may take such steps for the execution thereof as he may deem necessary.
- (d) The costs incurred in connection with the execution thus of such order shall be borne by the owner of the seed, grain, hay or other agricultural product concerned, and may be recovered from him by the executive officer.

(3)

- (a) If any weed adheres to an animal which is driven on a public road, conveyed in a vehicle or offered for sale at a livestock auction, the executive officer may issue an order that the weed concerned be removed from that animal.
- (b) A copy of any such order shall be served on the owner or on the person who has the control of the animal concerned.

- (c) The provisions of subsection (2)(c) and (d) shall *mutatis mutandis* apply to an order referred to in paragraph (a) of this subsection.
- (4) The provisions of subsections (1) and (2) shall not apply with regard to weed which occurs in seed which is conveyed or sold to or is present on the premises of an establishment which is registered in terms of the Plant Improvement Act, 1976 (Act No. 53 of 1976), in respect of the business of the cleansing of propagating material for sale, provided the words "uncleansed seed" or "onskoongemaakte saad" appear on the containers of such seed or on labels attached thereto.
- (5) Any person who removes any weed from seed, grain, hay or any other agricultural product or from an animal in terms of any order under subsection (2) or (3) shall deal with it in such manner as will ensure that it will not be able to reproduce itself.
- (6) Any person who contravenes any provision of subsection (1) or (5) or fails to execute any order served on him under sub-section (2) or (3) shall be guilty of an offence.

6. Control measures

- (1) In order to achieve the objects of this Act the Minister may prescribe control measures which shall be complied with by land users to whom they apply.
- (2) Such control measures may relate to –
- (a) the cultivation of virgin soil;
 - (b) the utilization and protection of land which is cultivated;
 - (c) the irrigation of land;
 - (d) the prevention or control of waterlogging or salination of land;
 - (e) the utilization and protection of vleis, marshes, water sponges, water courses and water sources;
 - (f) the regulating of the flow pattern of run-off water;
 - (g) the utilization and protection of the vegetation;
 - (h) the grazing capacity of veld, expressed as an area of veld per large stock unit;

- (i) the maximum number and the kind of animals which may be kept on veld;
 - (j) the prevention and control of veld fires;
 - (k) the utilization and protection of veld which has burned;
 - (l) the control of weeds and invader plants;
 - (m) the restoration or reclamation of eroded land or land which is otherwise disturbed or denuded;
 - (n) the protection of water sources against pollution on account of farming practices;
 - (o) the construction, maintenance, alteration or removal of soil conservation works or other structures on land; and
 - (p) any other matter which the Minister may deem necessary or expedient in order that the objects of this Act may be achieved, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.
- (3) A control measure may –
- (a) contain a prohibition or an obligation with regard to any matter referred to in subsection (2);
 - (b) provide that the executive officer may exempt a person from such prohibition or obligation by means of a written consent;
 - (c) prescribe the procedure with regard to the lodging of an application for such written consent.
- (4) Different control measures may be prescribed in respect of different classes of land users or different areas or in such other respects as the Minister may determine.
- (5) Any land user who refuses or fails to comply with any control measure which is binding on him, shall be guilty of an offence.

7. Directions

- (1) The executive officer may by means of a direction order a land user to comply with a particular control measure which is binding on him on or with regard to the land specified in such direction, or if it is in the opinion of the executive officer essential in order to achieve the objects of this Act, to perform or not to perform any other specified act on or with regard to such land.

- (2) Any such direction may provide that any requirement imposed therein shall be complied with in the manner or within the period specified in the direction.
- (3) Any such direction –
- (a) shall be published by the executive officer by notice in the *Gazette*; or
 - (b) shall be contained in a written notice served in the prescribed manner on the land user concerned.
- (4) Any direction which has been published or served in terms of subsection (3) –
- (a) shall be binding upon the land user specified therein and his successor in title in relation to the land mentioned in the direction; and
 - (b) may be withdrawn or amended by the executive officer by the service of a written notice on the land user concerned or his successor in title or the publication of a notice in the *Gazette*.
- (5)
- (a) Any direction which has been declared applicable with regard to land under section 3, 4 or 7 of the Soil Conservation Act, 1969 (Act No. 76 of 1969), and is in force at the commencement of this section, shall be deemed to be a direction which has been served in terms of this section on the land user in respect of the land mentioned therein.
 - (b) Any notice given under section 2 of the Weeds Act, 1937 (Act No. 42 of 1937), or any order issued in terms of section 5*bis* of that Act which is in force at the commencement of this section, shall be deemed to be a direction served in terms of this section on the land user in respect of the land mentioned therein.
- (6) Any land user who –
- (a) refuses to receive a direction served on him in the prescribed manner; or
 - (b) refuses or fails to comply with a direction binding on him,
- shall be guilty of an offence.

8. Schemes

- (1) The Minister may, with the concurrence of the Minister of Finance, by notice in the *Gazette* establish a scheme in terms of which assistance, out of moneys appropriated by Parliament for this purpose, may be granted to land users by means of –
 - (a) the payment of subsidies in respect of -
 - (i) the construction of soil conservation works;
 - (ii) the reparation of damage to the natural agricultural resources or soil conservation works which has been caused by a flood or any other disaster caused by natural forces;
 - (iii) the reduction of the number of animals being kept on land in order to restrict the detrimental effect of a drought on that land;
 - (iv) the restoration or reclamation of eroded, disturbed, denuded or damaged land;
 - (v) the planting and cultivation of particular crops which improve soil fertility or counteract the vulnerability of soil to erosion;
 - (vi) the combating of weeds or invader plants;
 - (vii) the performance or omission of anything else which the Minister may deem necessary or expedient in order to achieve the objects of this Act; and
 - (b) the supplying of weed killers in order to combat weeds or invader plants, and the rendering of services by the department, including the utilization of weed killers, in order to combat weeds or invader plants on the land of land users.
- (2) Different schemes may be so established in respect of different areas, and the provisions of a scheme may differ in respect of different areas in such respects as the Minister may determine.

9. Provisions of schemes

- (1) The Minister may in a notice by which a scheme is established –
 - (a) set out the objects of the scheme;
 - (b) mention the areas in which and the periods during which the scheme shall apply;
 - (c) mention the acts in respect of which assistance may be rendered under the scheme;

- (d) mention the basis for the determination of subsidies which may be paid under the scheme;
- (e) determine the requirements which have to be complied with in order to qualify for assistance under the scheme;
- (f) determine the procedure with regard to the lodging of an application in terms of the scheme;
- (g) require that particular reports with regard to the progress and completion of the act concerned shall be submitted at specified times;
- (h) mention the conditions on which assistance may be rendered under the scheme;
- (i) provide that –

- (i) any subsidy or grant paid or made under section 6 of the Soil Conservation Act, 1969 (Act No. 76 of 1969), and the conditions, determined or prescribed under that section, upon which it was so paid or made; or

- (ii) any financial or other assistance rendered under section 5(1)(b) of the Weeds Act, 1937 (Act No. 42 of 1937), and the conditions, determined under that section, upon which it was so rendered,

shall be deemed to be assistance rendered under the scheme, and the conditions on which such assistance has been so rendered; and

- (j) provide generally for any other matter which, in the opinion of the Minister, is necessary or expedient in order to promote or achieve the objects of the scheme, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

(2) Any person who –

- (a) after his application for participation in a scheme has been approved, refuses or fails to comply with the provisions of the scheme; or
- (b) refuses or fails to satisfy the conditions on which assistance has been rendered in terms of a scheme or are in terms of a scheme deemed to have been so rendered,

shall be guilty of an offence.

10. Rendering of advice

(1)

- (a) The executive officer, any other officer of the department, a member of a conservation committee or an authorized person may at any reasonable time enter upon land with a view to rendering advice, relating to the utilization and conservation of the natural agricultural resources or the control of weeds and invader plants in accordance with the objects of this Act, to the land user of the land concerned.
- (b) The executive officer, such other officer or such authorized person shall produce proof of his identity on being so requested by the land user of the land so entered upon.

(2) A person entering upon land under subsection (1) may –

- (a) carry out such investigations and make such surveys as is deemed necessary for the rendering of the advice concerned;
- (b) provide the land user concerned with plans and specifications which he may use in connection with the utilization and conservation of the natural agricultural resources or the control of weeds or invader plants; and
- (c) erect or effect such beacons and marks on that land as are necessary for the application of the advice rendered in terms of subsection (1), or to indicate the site where a soil conservation work should be constructed.

11. Minister may perform certain acts

(1) The Minister may out of moneys appropriated by Parliament for this purpose perform or cause to be performed on or in respect of any land, any act in relation to any matter mentioned in paragraphs (a) to (p) of subsection (2) of section 6 which he may deem necessary in order to achieve the objects of this Act.

(2)

- (a) Subject to the provisions of paragraph (b) of this subsection the costs of the performance of any act referred to in subsection (1) or such part of those costs as the Minister may determine, shall be repayable by the owner of the land on or in respect of which the act was performed.
- (b) If an act which has been performed on or in respect of any land in terms of subsection (1), has or is likely to have, in the opinion of the Minister, a beneficial effect on the land of another

owner, such portion of the costs mentioned in paragraph (a) as the Minister may determine, shall be repayable by such other owner.

(3)

- (a) Any amount which is repayable in terms of subsection (2) shall for the purposes of the recovery thereof be deemed to be assistance as defined in section 1 of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), which has been rendered by the Minister to the owner concerned on condition that –
- (i) if the amount due is repaid within 60 days of the date on which the executive officer has ordered that owner in writing to do so, no interest shall be payable thereon; and
 - (ii) if the amount due is not so repaid, interest thereon shall be charged at the rate mentioned in section 15(1) of the Agricultural Credit Act, 1966, as from the date on which the executive officer has ordered the repayment concerned in writing.
- (b) Notwithstanding the provisions of paragraph (a)(i) the Minister may after consideration of a written application by any owner of land, approve on such terms and conditions as he may in each case determine, including the right to require that a mortgage bond be registered in terms of section 34 of the Agricultural Credit Act, 1966, that –
- (i) repayment of the amount due, including interest, be postponed for a specified period; or
 - (ii) the amount due, including interest, be repaid in specified instalments at specified times.
- (c) Notwithstanding anything to the contrary contained in any law, any amount accruing to the Agricultural Credit Account referred to in section 20A of the Agricultural Credit Act, 1966, by virtue of this subsection, shall be transferred to the State Revenue Fund.

(4)

- (a) The Minister may with the concurrence of the owner of any land and subject to such conditions as may be agreed upon between the Minister and that owner, perform any act referred to in subsection (1) on or in respect of the land of that owner for the purpose of public demonstration or for research in any matter relating to veld, soil or water conservation or the combating of weeds or invader plants.
- (b) Notwithstanding the provisions of subsection (2), no portion of the costs of the performance of any act in terms of paragraph (a) of this subsection shall be repayable by the owner of the land concerned.

(5)

- (a) The Minister, any officer of the department or an authorized person may at any reasonable time –
- (i) enter upon any land in order to perform an act referred to in subsection (1) on or in respect of that land or any other land; and
 - (ii) proceed over any land in order to reach land on or in respect of which any act referred to in subsection (1) is to be performed.
- (b) Any person referred to in paragraph (a) may, after notice to the land user of the land so entered upon –
- (i) take with him such assistants, labourers, animals, vehicles, implements, equipment, instruments, appliances, chemicals and other aids as he may require for the purposes of an act referred to in subsection (1) whenever he enters upon that land;
 - (ii) erect a temporary camp on that land;
 - (iii) dig out or take any sand, soil, clay, gravel, stone, water, bush, wood or other material on that land which he may require for use in connection with the said purposes;
 - (iv) distribute on or remove from that land any insect or the eggs thereof or any other organism which is injurious to weeds or invader plants occurring on that land, or remove from that land any plant or portion of a plant upon which such insect, eggs or organism is present; and
 - (v) destroy on or remove from that land any weeds or invader plants which are present thereon.
- (c) Any officer or authorized person referred to in paragraph (a) shall produce proof of his identity on being so requested by the land user of the land so entered upon.

(6)

- (a) The Minister may with the concurrence of the Minister of Finance pay to a land user out of moneys appropriated by Parliament for this purpose such compensation as he may deem reasonable in respect of a temporary camp which is erected on land in terms of subsection (5)(b)(ii), or in respect of sand, soil, clay, gravel, stone, water, bush, wood or other material which is dug out or taken in terms of subsection (5)(b)(iii).

- (b) The payment of compensation in terms of paragraph (a) shall only be considered if –
 - (i) an application in this connection is submitted to the executive officer by the land user concerned in writing within 90 days of the date on which the camp concerned is removed from the land concerned, or the sand, soil, clay, gravel, stone, water, bush, wood or other material concerned is dug out or taken; and
 - (ii) the act concerned referred to in subsection (5)(a) was not performed on land of the land user concerned or does not have or is not likely to have a beneficial effect on such land.
- (c) Compensation paid in terms of paragraph (a) shall form part of the costs referred to in subsection (2)(a).

12. Maintenance of soil conservation works and maintenance of certain states of affairs

(1)

- (a) A soil conservation work shall, except where otherwise provided in this Act or a scheme, be maintained by every land user of the land concerned and his successor in title at his own expense in a manner which, in the opinion of the executive officer, will ensure the continued efficiency thereof.
- (b) The state of affairs arising on any land after any act has been performed thereon or in respect thereof in order to achieve the objects of this Act, shall be maintained in such manner as in the opinion of the executive officer will obviate the necessity of a repetition of that act.
- (c) Notwithstanding the provisions of paragraph (a) the executive officer may order a land user in writing, or on application grant written consent to a land user, to alter, remove or destroy a particular soil conservation work.

(2)

- (a) If a land user or his successor in title refuses or fails to comply with the provisions of subsection (1) in respect of -
 - (i) a soil conservation work or an act for which assistance has been rendered under a scheme or is deemed to have been so rendered, or which has been constructed or performed in terms of section 11 of this Act or section 4(4), 7, 8 or 19 of the Soil Conservation Act, 1969 (Act No. 76 of 1969); or
 - (ii) an act which has been performed in terms of section 4 or 5 of the Weeds Act, 1937 (Act No. 42 of 1937),

an amount equal to the monetary value of such assistance, or the actual costs less any contribution already paid by a land user, of such construction or performance, or such portion of such amount or actual costs as the executive officer may in each case determine, shall be repayable.

- (b) An amount which is repayable in terms of paragraph (a)-
- (i) shall be paid by the person who is the land user of the land concerned on the date on which the executive officer becomes aware of such refusal or failure, unless the person concerned proves, in the case of a soil conservation work which has been altered, removed or destroyed, to the satisfaction of the executive officer that it was altered, removed or destroyed before he became the land user of the land concerned; and
 - (ii) shall be paid to the executive officer within 60 days of the date on which he ordered the land user concerned in writing to pay the amount due.
- (c) If a land user fails to pay the amount repayable by him in terms of paragraph (b) within the period referred to in subparagraph (ii) of that paragraph, interest at a rate equal to the rate determined in terms of section 26(1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), and which is applicable on the date on which the executive officer ordered the repayment concerned in writing, shall be payable in respect of the amount due.
- (3) If the executive officer becomes aware of any refusal or failure to comply with the provisions of subsection (1), he may order a land user to repair or reconstruct the soil conservation work concerned or to repeat the act concerned.
- (4) The land user concerned shall not be discharged from prosecution for a contravention of the provisions of subsection (1) on account of the payment of an amount due in terms of subsection (2), or the repair or reconstruction of a soil conservation work or the repetition of an act in terms of subsection (3) or otherwise.
- (5) Any person who contravenes any provision of subsection (1) or refuses or fails to comply with an order contemplated in subsection (3) shall be guilty of an offence.

13. Minister may order payment of certain amounts

- (1)
- (a) The Minister may order any owner of land in writing to pay an amount determined by the Minister, to a land user in respect of the increase or likely increase in the value of the land of

such owner as a result of the beneficial effect on that land of a soil conservation work which has been constructed by such land user.

- (b) Any such order shall only be issued by the Minister if –
 - (i) the construction of the soil conservation work concerned has been required in terms of a direction; and
 - (ii) the land user by whom the soil conservation work concerned has been constructed, has requested the Minister in writing to so order the owner of the land concerned.
- (c) In determining the amount which is payable by an owner of land in terms of paragraph (a), the Minister shall, in addition to any other relevant circumstance, also take into consideration –
 - (i) the actual cost of the construction of the soil conservation work concerned; and
 - (ii) which portion of such cost has been paid to the land user concerned by way of a subsidy in terms of a scheme.
- (d) If any owner of land fails to pay the amount owing by him in terms of paragraph (a), to the land user concerned within 90 days of the date on which the Minister ordered the payment of that amount in writing, such land user may recover the amount due from such owner by way of a civil action in any competent court.

(2)

- (a) The Minister may order any owner of land in writing to pay an amount determined by the Minister, to an owner of other land in respect of the decrease or likely decrease in the value of the land of such other owner as a result of the detrimental effect on that land of a soil conservation work which has been constructed by the first-mentioned owner on his land.
- (b) Any such order shall only be issued by the Minister if –
 - (i) the construction of the soil conservation work concerned has been required in terms of a direction; and
 - (ii) the owner of the land the value of which has decreased or is likely to decrease as a result of the alleged detrimental effect of the soil conservation work concerned, has requested the Minister in writing to so order the owner of the land on which that soil conservation work has been constructed.

- (c) In determining the amount which is payable by an owner of land in terms of paragraph (a), the Minister shall, in addition to any other relevant circumstance, also take into consideration -
- (i) the actual cost of the construction of the soil conservation work concerned; and
 - (ii) which portion of such cost has by way of a subsidy in terms of a scheme been paid to the owner by whom the soil conservation work concerned has been constructed.
- (d) If any owner of land fails to pay the amount owing by him in terms of paragraph (a), to the other owner concerned within 90 days of the date on which the Minister ordered the payment of that amount in writing, such other owner may recover the amount due from the first-mentioned owner by way of a civil action in any competent court.

14. Expropriation of land for purposes of restoration or reclamation

- (1) If the Minister is of opinion that it is necessary for the restoration or reclamation of the natural agricultural resources of any land in order to achieve the objects of this Act, he may expropriate that land.
- (2) The provisions of the Expropriation Act, 1975 (Act No. 63 of 1975), shall *mutatis mutandis* apply with reference to the expropriation of land under subsection (1) of this section.

15. Conservation committees

- (1) The Minister may establish a committee, to be known as a conservation committee, in respect of any area determined by the Minister.
- (2) A conservation committee so established for any area –
- (a) shall promote the conservation of the natural agricultural resources in the area concerned in order to achieve the objects of this Act on or with regard to the land in that area;
 - (b) shall advise the department on any matter as to the application of this Act or a scheme in the area concerned, or which it may deem necessary in order that the objects of this Act may be achieved in the area concerned; and
 - (c) may exercise such other powers and shall perform such other duties as may be conferred or imposed upon it by or in terms of this Act or by the Minister.

(3)

Prepared by:

In partnership with:

- (a) The members of a conservation committee shall be appointed by the Minister by virtue of their knowledge of and interest in the conservation of the natural agricultural resources of the Republic, and shall consist of –
 - (i) two land users designated by the Minister; and
 - (ii) so many additional persons, not being less than three, as the Minister may from time to time determine, who are land users.
 - (b) A member referred to in paragraph (a)(ii) shall be nominated by the farmers' association, farmers' union or district agricultural union, as the case may be, for the area concerned, to serve on the conservation committee concerned.
 - (c) Whenever the appointment of a member referred to in paragraph (a)(ii) becomes necessary, the regional director of the region within which the area concerned is situated, shall request the farmers' association, farmers' union or district agricultural union concerned, as the case may be, in writing to submit its nomination to him in writing within a specified period.
 - (d) If the farmers' association, farmers' union or district agricultural union concerned, as the case may be, fails to comply with such request within the specified period, the said regional director may nominate such land users as he may deem fit for appointment as members of the conservation committee concerned in the place of the land users required to be nominated.
 - (e) A member of a conservation committee shall be a land user in the area in respect of which the conservation committee has been established.
 - (f) Any area determined under section 9 of the Soil Conservation Act, 1969 (Act No. 76 of 1969), in respect of which a soil conservation committee has been established under that section, shall be deemed to have been determined under subsection (1) of this section.
 - (g) Notwithstanding the provisions of paragraph (a) the persons who, at the commencement of this section, are the members of a soil conservation committee which has been established in respect of any such area under section 9 of the Soil Conservation Act, 1969, shall constitute the conservation committee in respect of that area for the remainder of their period of office.
- (4)
- (a) A member of a conservation committee shall hold office for such period, not being more than five years, as the Minister may determine at the time of the appointment of that member, and such member may, at the expiry of his period of office by effluxion of time, be reappointed as a member of the conservation committee.

- (b) A member of a conservation committee shall vacate his office if –
 - (i) he has absented himself from two consecutive meetings of the conservation committee without the leave of the committee;
 - (ii) he ceases to be a land user in the area in respect of which the conservation committee has been established;
 - (iii) he tenders his resignation in writing to the chairman of the conservation committee;
 - (iv) he has been convicted of an offence under this Act.
 - (v) he has been convicted of any other offence in respect of which he was sentenced to imprisonment without the option of a fine, and such sentence has not been suspended; or
 - (vi) the Minister, if in his opinion sufficient reasons exist therefor, terminates his membership of the conservation committee.
 - (c) A vacancy on a conservation committee arising in terms of paragraph (b) or as a result of the death of a member, shall be filled by appointment in the manner in which the member who vacated his office or died, was required to be appointed.
 - (d) A member who is appointed by virtue of paragraph (c) shall hold office for the unexpired portion of the period for which the member who vacated his office or died, was appointed.
- (5)
- (a) The person who at the commencement of this section is the chairman of a soil conservation committee which has been established in respect of a particular area in terms of section 9 of the Soil Conservation Act, 1969, shall be the chairman of the conservation committee in respect of the area concerned until a chairman is elected in terms of paragraph (b)(ii) of this subsection.
 - (b) The members of a conservation committee shall elect a chairman from among themselves –
 - (i) at the first meeting after the establishment of that conservation committee; and
 - (ii) at the first meeting of that conservation committee after the office of chairman thereof has become vacant for any reason whatsoever, or as soon thereafter as may be convenient.

- (c) The chairman elected in terms of paragraph (b)(ii) shall hold office for the unexpired portion of the period for which he has been appointed as a member of the conservation committee concerned.
 - (d) The chairman of a conservation committee may vacate his office as such without terminating his membership of the conservation committee.
- (6)
- (a) The calling and attendance of and the quorum for a meeting of a conservation committee shall be as prescribed.
 - (b) Except in so far as may be prescribed, the person who presides at a meeting of a soil conservation committee shall determine the procedure at that meeting.
- (7) The decision of a majority of the members of a conservation committee present at any meeting thereof shall constitute the decision of that committee: Provided that in the event of an equality of votes the member presiding at that meeting shall have a casting vote in addition to his deliberative vote.
- (8) No decision taken by a conservation committee or act performed under the authority of a conservation committee shall be invalid by reason only of an interim vacancy on the committee or by reason of the fact that a person who is not entitled to sit as a member of the committee sat as a member of the committee at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the committee who were present at the time and entitled to sit as members.
- (9) A conservation committee may from time to time appoint from its own members the sub-committees which it may deem necessary, to exercise the powers and perform the duties which the conservation committee may confer upon, delegate to or impose upon it.
- (10)
- (a) Each conservation committee shall appoint one of its members or any other person as secretary of the conservation committee.
 - (b) Any person so appointed shall in the prescribed manner dispose of any documents relating to the functions of the conservation committee.
- (11)
- (a) Members of a conservation committee who are not in the full-time service of the State may in respect of their services as such members be paid out of moneys appropriated by Parliament

for this purpose, such allowances as the Minister may with the concurrence of the Minister of Finance determine.

- (b) Any person appointed in terms of subsection (10) as secretary of a conservation committee may in respect of the performance of his functions as such be paid out of moneys appropriated by Parliament for this purpose, such remuneration and allowances as the Minister may with the concurrence of the Minister of Finance determine.

16. Regional conservation committees

- (1) The Minister may establish in respect of any region determined by him, a committee to be known as a regional conservation committee.
- (2) A regional conservation committee so established in respect of a particular region shall –
 - (a) advise every conservation committee in the region concerned on matters regarding the conservation of the natural agricultural resources;
 - (b) advise the department and the advisory board on any matter arising from the application of this Act or a scheme in the region concerned, or which it may deem necessary in order that the objects of this Act may be achieved in that region; and
 - (c) perform such other duties as may be imposed upon it by the Minister.
- (3)
 - (a) The members of a regional conservation committee shall be appointed by the Minister and shall consist –
 - (i) of the regional director of the region concerned and an officer of the department under the control of that regional director;
 - (ii) subject to the provisions of paragraph (b), of two representatives of each particular area within the region concerned which the department considers to be a subregion of that region; and
 - (iii) one representative of each provincial agricultural union the area of which forms part of the region concerned.

- (b) For the purposes of paragraph (a)(ii) the Minister may, if he deems it expedient, appoint one additional representative of any particular subregion as a member of a regional conservation committee.
 - (c) The members referred to in paragraphs (a)(ii) and (b) shall be appointed by the Minister from a list of names consisting of the names of at least four members of the conservation committees within each subregion, and who are recommended for such appointment by the regional director concerned after consultation with the provincial agricultural union concerned.
 - (d) A member referred to in paragraph (a)(iii) shall be nominated by the provincial agricultural union concerned to serve on the regional conservation committee concerned.
 - (e) Whenever the appointment of a member referred to in paragraph (a)(iii) becomes necessary, the regional director concerned shall request the provincial agricultural union concerned in writing to submit its nomination to him within a specified period.
 - (f) If a provincial agricultural union fails to comply with such request within the specified period, the said regional director may nominate any person whom he deems fit in the place of the person required to be nominated, for appointment as a member of the regional conservation committee concerned.
- (4)
- (a) A member referred to in subsection (3)(a)(ii) or (b) shall hold office for the unexpired portion of the period for which he has been appointed as a member of a conservation committee.
 - (b) A member referred to in subsection (3)(a)(iii) shall hold office for such period, not being more than five years, as the Minister may determine at the time of the appointment of the member.
 - (c) A member referred to in subsection (3)(a)(ii) or (iii) or (b) may at the expiration of his term of office by effluxion of time be reappointed.
 - (d) A member of a regional conservation committee shall vacate his office if –
 - (i) he has absented himself from two consecutive meetings of the regional conservation committee without the leave of the committee;
 - (ii) in the case of a member referred to in subsection (3)(a)(i), he ceases to be regional director of the region concerned or officer under his control;

- (iii) in the case of a member referred to in subsection (3)(a)(ii) or (b), he ceases to be a member of a conservation committee;
 - (iv) he tenders his resignation in writing to the chairman of the regional conservation committee; or
 - (v) the Minister, if in his opinion sufficient reasons exist therefor, terminates his membership of the regional conservation committee.
- (e) A vacancy on a regional conservation committee arising in terms of paragraph (d) or as a result of the death of a member, shall be filled by appointment in the manner in which the member who vacated his office or died, was required to be appointed.
- (f) A member who is appointed by virtue of paragraph (e) shall hold office for the unexpired portion of the period for which the member who vacated his office or died, was appointed.
- (5) The officers referred to in subsection (3)(a)(i) shall be the chairman and vice-chairman, respectively, of the regional conservation committee to which they have been appointed.
- (6)
- (a) A regional conservation committee shall meet as often and at such times and places as the chairman may determine.
 - (b) The majority of the members of a regional conservation committee shall constitute a quorum for a meeting of that regional conservation committee.
 - (c) The chairman or in his absence the vice-chairman of a regional conservation committee shall preside at all meetings of that regional conservation committee at which he is present.
 - (d) The person presiding at a meeting of a regional conservation committee shall determine the procedure at that meeting.
- (7) The provisions of section 15(7) and (8) shall *mutatis mutandis* apply to a regional conservation committee.
- (8) The secretarial and administrative work incidental to the performance of its functions by a regional conservation committee shall be performed by an officer of the department under the control of the regional director concerned.

- (9) Members of a regional conservation committee who are not in the full-time service of the State may in respect of their services as such members be paid out of moneys appropriated by Parliament for this purpose, such allowances as the Minister may with the concurrence of the Minister of Finance determine.

17. Conservation Advisory Board

- (1) There is hereby established an advisory board to be known as the Conservation Advisory Board.
- (2) The advisory board shall advise the Minister on matters concerning –
- (a) the desirability of prescribing specific control measures with regard to a particular area;
 - (b) the desirability of establishing a specified scheme, and the provisions of any such scheme; and
 - (c) any other matter arising from the application of this Act or a scheme, or which it may deem necessary in order to achieve the objects of this Act or which the Minister may refer to it for advice.
- (3)
- (a) The members of the advisory board shall be appointed by the Minister and shall consist of –
 - (i) the executive officer and another officer of the department;
 - (ii) one officer of the Department of Environment Affairs who has been nominated by the Minister of Environment Affairs and Fisheries;
 - (iii) one person from among the members of each regional conservation committee; and
 - (iv) one person nominated by the South African Agricultural Union.
 - (b) For the purposes of paragraph (a)(iii) –
 - (i) a member of any regional conservation committee who is an officer shall not be appointed as a member of the advisory board; and
 - (ii) the Minister may, if he deems it expedient, appoint one additional person from among the members of any particular regional conservation committee as a member of the advisory board.

- (4)
- (a) A member referred to in subsection (3)(a)(iii) shall hold office for the unexpired portion of the period for which he has been appointed as a member of a regional conservation committee.
 - (b) A member referred to in subsection (3)(a)(iv) shall hold office for such period, not being more than five years, as the Minister may determine at the time of appointment of that member.
 - (c) A member referred to in subsection (3)(a)(iii) or (iv) may at the expiration of his term of office by effluxion of time be reappointed.
 - (d) A member of the advisory board shall vacate his office if -
 - (i) he has absented himself from two consecutive meetings of the advisory board without the leave of the board;
 - (ii) in the case of a member referred to in subsection (3)(a)(i) or (ii), he vacates the office held at the time of his appointment;
 - (iii) in the case of a member referred to in subsection (3)(a)(iii), he ceases to be a member of a regional conservation committee;
 - (iv) he tenders his resignation in writing to the chairman of the advisory board; or
 - (v) the Minister, if in his opinion sufficient reasons exist therefor, terminates his membership of the advisory board.
 - (e) A vacancy on the advisory board arising in terms of paragraph (d) or as a result of the death of a member, shall be filled by appointment in the manner in which the member who vacated his office or died, was required to be appointed.
 - (f) A member who is appointed by virtue of paragraph (e) shall hold office for the unexpired portion of the period for which the member who vacated his office or died, was appointed.
- (5) The officers referred to in subsection (3)(a)(i) shall be the vice-chairman and chairman, respectively, of the advisory board.
- (6) The provisions of sections 15(7) and (8) and 16(6), (8) and (9) shall *mutatis mutandis* apply to the advisory board.

18. Powers of investigation

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- (1) The executive officer, any other officer of the department, a member of a soil conservation committee or an authorized person may at any reasonable time enter upon any land in order –
- (a) to determine whether and to what extent erosion or other damage occurs on that land;
 - (b) to determine whether weeds or invader plants occur on that land;
 - (c) to determine the condition of the grazing on that land;
 - (d) to determine whether and to what extent the natural vegetation is deteriorating or has been destroyed on that land;
 - (e) to determine whether and to what extent the water sources on that land are polluted on account of farming methods or have become weaker or have ceased to exist;
 - (f) to ascertain whether a soil conservation work should be constructed on that land, and whether a direction should be served on the land user of that land;
 - (g) to demarcate an area on that land which is required to be demarcated for the purposes of this Act or a scheme, and for the purposes of such demarcation to make the necessary surveys and erect or effect beacons or marks;
 - (h) make such other surveys, take soil or plant samples and undertake such other investigations as he may deem necessary on that land in order to make an assessment of the condition of the soil, the water sources and the vegetation, and may for the purposes of such assessment take such photographs as he may deem necessary;
 - (i) to determine whether sand, soil, clay, gravel, stone or other material which is required for the performance of an act referred to in section 11, is present on that land;
 - (j) to determine whether the land user concerned –
 - (i) is complying with a control measure;
 - (ii) is complying with the requirements of a direction;
 - (iii) is complying with the provisions of a scheme; or

- (iv) is otherwise utilizing the natural agricultural resources in a manner which will ensure that the objects of this Act are achieved on or with regard to that land;
 - (k) to inspect the effect of an act referred to in section 11 which has been performed on that land;
 - (l) to determine the number and kind of animals on that land;
 - (m) to carry out any other investigation connected with any matter referred to in this Act or a scheme, on or in respect of that land; and
 - (n) to proceed over that land for the purpose of reaching land on or in respect of which any other duty or function referred to in this subsection is to be performed.
- (2) Any person entering upon land under subsection (1) may –
- (a) examine any book or document in the possession or custody of the land user concerned or his employee, agent or manager, and which on reasonable grounds is suspected to have a bearing on a matter referred to in this Act or a scheme, and make copies of or extracts from such book or document;
 - (b) demand an explanation from the land user concerned or his employee, agent or manager, of any relevant entry in a book or document referred to in paragraph (a), or of anything observed by him in connection with a matter referred to in subsection (1);
 - (c) demand that the land user concerned or his employee, agent or manager on that land render all reasonable assistance, including the transport of such person on the land concerned, which such person may desire in order to enable him to perform the functions or duties referred to in subsection (1) on or in connection with the land concerned; and
 - (d) take with him when he enters upon the land concerned such assistants, labourers, animals, vehicles, implements, equipment, instruments, appliances, chemicals and other aids as he may need to perform the duties referred to in subsection (1) on or in relation to that land.
- (3) No compensation shall be payable to a land user in respect of the rendering of assistance in terms of subsection (2)(c).
- (4) Any person referred to in subsection (1) may at any reasonable time –
- (a)

- (i) enter upon and inspect any land, building or vehicle on or in which there is any seed, grain, hay or other agricultural product present which contains or is suspected to contain weeds;
 - (ii) inspect or test such seed, grain, hay or other agricultural product or take a sample thereof for inspection or testing in order to determine whether it contains weeds; and
 - (iii) seize any quantity of such seed, grain, hay or other agricultural product which may serve as proof of any offence under this Act, and remove from or leave on or in such land, building or vehicle such quantity thereof as he may determine, and, if he deems it necessary, affix any identification mark to such seed, grain, hay or other agricultural product or the containers thereof; or
- (b) examine an animal which is driven on a public road, conveyed in a vehicle or offered for sale at a livestock auction, in order to ascertain whether any weed adheres to such animal.
- (5) The executive officer, other officer or authorized person shall produce proof of his identity on being so requested by the land user of the land or the person in charge of the building or vehicle which is entered upon in terms of this section or the person in charge of an animal which is examined in terms of subsection (4),
- (6) Any person who –
- (a) obstructs or hinders any officer, member of a conservation committee or authorized person in the exercise of his powers or the performance of his duties in terms of this section or a scheme;
 - (b) whenever any person demands from him any statement or explanation in terms of this section or a scheme, refuses or fails to furnish that statement or explanation or furnishes a statement or explanation which is false or misleading, knowing that it is false or misleading; or
 - (c) refuses or fails to render to any officer, any member of a conservation committee or any authorized person the reasonable assistance which he demands in the performance of his functions in terms of this section or a scheme,

shall be guilty of an offence.

19. Erection and maintenance of beacons and marks

- (1) Any beacon or mark which is erected or effected on any land in terms of this Act or a scheme shall comply with the requirements prescribed in respect thereof.

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- (2)
- (a) Every land user of any land on which any such beacon or mark has been erected or effected and any successor in title of his shall maintain the beacon or mark.
 - (b) No person shall without the written consent of the executive officer damage, destroy, remove, alter or otherwise tamper with any such beacon or mark.
- (3) Any person who contravenes or fails to comply with any provision of subsection (2) shall be guilty of an offence.

20. Powers of executive officer

- (1) The executive officer may consider any application or request made in terms of this Act or a scheme, and may make any investigation or inquiry in connection therewith which he may deem necessary, and may for the purposes of such investigation or inquiry demand that such documents or information as he may determine, be submitted to him.
- (2) Whenever by or in terms of this Act or a scheme any period is specified within which any act is to be performed or anything is to be done, the executive officer may, save where it is provided otherwise, extend the period, either before or after its expiry.
- (3) An approval, authorization or a consent by the executive officer in terms of this Act or a scheme may –
- (a) be made subject to such conditions as the executive officer may in each case determine; and
 - (b) be amended or withdrawn by the executive officer in any particular case if he deems it expedient.
- (4) If the executive officer, by virtue of a power vested in him by or under this Act or a scheme –
- (a) refuses to approve an application or a request which has been submitted to him in writing; or
 - (b) amends or withdraws an approval, authorization or a consent in terms of subsection (3)(b),
- he shall notify the applicant concerned in writing of his decision and of the grounds on which it is based.
- (5) Any person who refuses or fails to comply with the conditions on which any approval, authorization or consent has been granted in terms of this Act or a scheme shall be guilty of an offence.

21. Appeal against decisions or action

- (1) Any person who considers himself aggrieved by any decision or action in terms of this Act or a scheme by the executive officer or any other officer to whom powers have been delegated under section 26, may appeal to the Minister against the decision or action concerned.
- (2) Such appeal shall be lodged with the Director-General within the prescribed time and in the prescribed manner, and shall be accompanied by the prescribed amount.
- (3) The Director-General shall refer the appeal for inquiry and report thereon to an officer of the department other than the executive officer or an officer concerned in the decision or action against which the appeal is brought, and thereupon the Director-General shall submit the documents concerned, the said report and the Director-General's recommendation with reference to the appeal, to the Minister.
- (4) An appellant may request or be requested to appear before the officer concerned at an inquiry referred to in subsection (3), to be heard and questioned, and he may be assisted or represented by any other person.
- (5)
 - (a) The Minister may after consideration of the documents submitted to him in terms of subsection (3), confirm or set aside or alter the decision or action against which the appeal is brought, or issue such order in connection therewith as he may deem necessary.
 - (b) The Director-General shall notify an appellant in writing of the decision of the Minister as to the appeal.
 - (c) If the Minister alters or sets aside the decision or action by the executive officer or other officer concerned, the amount referred to in subsection (2), or such portion thereof as the Minister may determine, shall be repayable to the appellant concerned.
 - (d)

(Section 21(5)(d) deleted by section 95 of Act 88 of 1996)
- (6) Any person who, after being requested thereto in terms of subsection (4), refuses or fails to appear at an inquiry referred to in subsection (3) or, having appeared, to answer fully and in a satisfactory manner every question lawfully put to him, shall be guilty of an offence.

22. Secrecy

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- (1) No person shall, except for the purpose of the performance of his functions or duties under this Act or a scheme, or for the purpose of legal proceedings under this Act, or when required to do so by any court or under any law, disclose to any other person any information acquired by him in the performance of his functions or duties under this Act or a scheme, and which relates to the business or affairs of any other person.
- (2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

23. Penalties

- (1) Any person is on –
 - (a) a first conviction of an offence under section 5(6), 6(5), 7(6)(b), 9(2)(b), 12(5) or 18(6)(b), liable to a fine not exceeding R5 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;
 - (b) a second or subsequent conviction of an offence mentioned in paragraph (a), whether the same or any other offence mentioned in that paragraph, liable to a fine not exceeding R10 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment;
or
 - (c) conviction of an offence under section 7(6)(a), 9(2)(a), 18(6)(a), 18(6)(c), 19(3), 20(5), 21(6) or 22(2), liable to a fine not exceeding R500 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.
- (2) A magistrate's court shall be competent to impose any penalty provided for in this section.

24. Presumptions and evidence

In any prosecution under this Act –

- (a) it shall be presumed, unless the contrary is proved, that the applicable provisions of this Act apply to the land on or in respect of which the offence concerned has allegedly been committed;
- (b) in which a particular direction is involved, a document which purports to be certified by the executive officer as a true copy of that direction shall be admitted in evidence in any court without further proof or production of the original;

- (c) it shall be presumed, unless the contrary is proved, that, if the copy referred to in paragraph (b) of a direction purports to be endorsed by the executive officer to the effect that he published the direction of which that copy purports to be a copy, by notice in the *Gazette* or that that direction was served by written notice on a person mentioned in such endorsement, that the executive officer published the said direction by notice in the *Gazette* or that it was served on the said person by written notice, as the case may be;
- (d) it shall be presumed, unless the contrary is proved, that a soil conservation work which has been altered, removed or destroyed, was so altered, removed or destroyed –
 - (i) without the executive officer having issued an order or granted a consent referred to in section 12(1)(c) in respect thereof; and
 - (ii) by the person who was the land user in respect of the land concerned on the date on which the executive officer became aware of such alteration, removal or destruction; and
- (e) it shall be presumed, unless the contrary is proved, that a beacon or mark which has been damaged, destroyed, removed, shifted, altered or otherwise tampered with after having been erected or effected in terms of this Act or a scheme, was so damaged, destroyed, removed, shifted, altered or otherwise tampered with –
 - (i) without the executive officer having granted a consent in terms of section 19(2)(b) therefor; and
 - (ii) by the person who was the land user of the land concerned on the date on which the executive officer became aware of such damage, destruction, removal, shifting, alteration or tampering.

25. Liability of employer or principal

- (1) Any act or omission of any employee, agent or manager which constitutes an offence under this Act, shall be deemed to be the act or omission of his employer or principal, and such employer or principal may be convicted and sentenced in respect thereof unless he proves –
 - (a) that that act or omission was not permitted or connived at by him; and
 - (b) that he took all reasonable steps to prevent an act or omission of the nature concerned; and

- (c) that an act or omission, whether lawful or unlawful, of the nature concerned did not under any condition or circumstances fall within the course of the employment or the scope of the authority of the employee, agent or manager concerned.
- (2) For the purposes of subsection (1)(b) the fact that an employer or a principal forbade an act or omission of the nature concerned, shall not by itself be regarded as sufficient proof that he took all reasonable steps to prevent such act or omission.
- (3) The provisions of subsection (1) do not relieve the employee, agent or manager of any liability of being convicted and sentenced in respect of the act or omission concerned.

26. Delegation of powers of Minister

The Minister may in writing delegate all the powers that this Act grants him, or one or more thereof, except the powers referred to in sections 2(3), 6, 8, 21 and 29, to one or more officers of the department, but shall not be divested of any power which he has so delegated.

27. Defects in form

A defect in the form of any direction, order, instruction, approval, authorization, consent, application, request, notice, certificate, report or other document which has been issued or furnished in terms of this Act or a scheme shall not render invalid any administrative proceedings to which such direction, order, instruction, approval, authorization, consent, application, request, notice, certificate, report or other document relates, and shall not be a ground for exception in any legal proceedings, provided the requirements for such direction, order, instruction, approval, authorization, consent, application, request, notice, certificate, report or other document have been substantially complied with and the meaning thereof is intelligible.

28. Limitation of liability

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

29. Regulations

- (1) The Minister may make regulations –
 - (a) as to the categories into which weeds and invader plants are divided;

- (b) as to the documents with reference to a direction and the service thereof which are to be obtained and kept by the executive officer;
 - (c) as to the powers and duties of a conservation committee;
 - (d) with the concurrence of the Minister of Finance, prescribing the matters in respect of which fees shall be payable, and the tariff of those fees;
 - (e) as to any matter which in terms of this Act is required or permitted to be prescribed or done by regulation, and, generally, with reference to any matter which he considers necessary or expedient to prescribe in order to achieve or to promote the objects of this Act, and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.
- (2) Different regulations may be made under this section in respect of different areas or in such other respects as the Minister may determine.
- (3) Any regulation may prescribe penalties, not exceeding a fine of R500 or imprisonment for a period of three months or both such fine and such imprisonment, for any contravention of or failure to comply with its provisions.

30. Repeal of laws

Subject to the provisions of sections 4(4), 7(6), 9(1)(i), 12(2) and 15(3)(f) and (g) and (5)(a), the laws specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

31. Short title and commencement

- (1) This Act shall be called the Conservation of Agricultural Resources Act, 1983, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.
- (2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

Schedule

LAWS REPEALED

No. and year of law	Short title	Extent of repeal
Act No. 42 of 1937	Weeds Act, 1937	The whole

Prepared by:

In partnership with:

Act No.2 of 1939	Weeds Amendment Act, 1939	The whole
Act No. 32 of 1964	Weeds Amendment Act, 1964	The whole
Act No. 74 of 1969	Weeds Amendment Act, 1969	The whole
Act No. 76 of 1969	Soil Conservation Act. 1969	The whole, except Part IV
Act No.4 of 1971	Soil Conservation Amendment Act, 1971	The whole
Act No. 38 of 1971	Second Soil Conservation Amendment Act, 1971	The whole
Act No. 11 of 1973	Soil Conservation Amendment Act, 1973	The whole
Act No. 21 of 1974	Soil Conservation Amendment Act, 1974	The whole
Act No. 63 of 1975	Expropriation Act, 1975	Section 82
Act No. 22 of 1977	Soil Conservation Amendment Act, 1977	The whole

Prepared by:

In partnership with: