



Republic of Namibia  
Annotated Statutes

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## Abattoir Industry Act 54 of 1976 (RSA)

(RSA GG 5077)

brought into force in South Africa and South West Africa  
on 1 February 1977 by RSA Proc. R.14/1977 (RSA GG 5387)  
(see section 75 of Act)

**APPLICABILITY TO SOUTH WEST AFRICA:** Section 1 defines “the territory” as “the territory of South West Africa”. Section 75 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

**TRANSFER TO SOUTH WEST AFRICA:** The administration of this Act was transferred to South West Africa by the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation, AG 18 of 1977, dated 20 December 1977. None of the amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Abattoir Industry Amendment Act 69 of 1982* (RSA GG 8214), the *Abattoir Industry Amendment Act 32 of 1984* (RSA GG 9169) and the *Transfer of Powers and Duties of the State President Act 97 of 1986* (RSA GG 10438) – were applicable to South West Africa because none were made expressly so applicable.

Section 3(2) of the transfer proclamation provided that, notwithstanding section 3(2)(b) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, references to the Minister of Agriculture in sections 3(1)(c) and (e) and sections 46(j) and (l) of the Act (which deal with certain powers and functions of the Abattoir Commission and the South African Abattoir Corporation) should be construed as a reference to the Administrator-General.

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## ACT

To provide for control over all matters in connection with the siting, erection, use, alteration, closing, management and conduct of, and the performance of services at, abattoirs; the co-ordination and rationalization of all such matters; the giving of advice on such matters to the Minister and certain other persons and for that purpose to establish a commission; the establishment of a corporation with the power to erect, hire or acquire abattoirs in the general interest, and to manage and conduct such abattoirs on a utility basis and in an orderly, economical and effective manner; and to provide for incidental matters.

*(Afrikaans text signed by the State President)*  
*(Assented to 29 March 1976)*

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

[The *Government Gazette* mistakenly uses the Afrikaans word “die” in this phrase instead of the English word “the”.]

**Definitions**

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

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“abattoir” means a place where animals are slaughtered or are intended to be slaughtered and includes all facilities which normally appertain or are attached to such a place, whether or not such facilities are situated at the same place as such place;

“account books” includes accounts, deeds, records, writings and other documents;

“animal” means any member of any of the following kinds of animals, namely, cattle, donkeys, goats, horses, mules, pigs or sheep, of any age, or any member of any other kind of animals in respect of which the State President may by proclamation in the *Gazette* apply the provisions of this Act: Provided that a karakul lamb which is slaughtered mainly to obtain its pelt shall not be deemed to be an animal for the purposes of this Act;

“authorized operator” means any person who by virtue of a right granted in terms of the scheme performs a service, but does not include, except for the purposes of sections 22 and 32 a person who by virtue of such right slaughters animals at an abattoir;

“Board” means the Livestock and Meat Industries Control Board referred to in the scheme;

“calf” means a bovine animal of which no portion of the backmost components of the fourth molar in the upper jaw has penetrated the gum;

“close”, in relation to an abattoir, means to discontinue using the abattoir for the slaughter of animals, or to discontinue allowing the abattoir to be used for the slaughter of animals, and “closure”, in relation to an abattoir, has a corresponding meaning;

“code” means the code published in terms of section 26;

“Commission” means the Abattoir Commission established by section 2;

“Corporation” means the South African Abattoir Corporation established by section 44;

“Department” means the Department of Agricultural Economics and Marketing;

“director” means a director of the Corporation;

“equipment” means any apparatus, implement or instrument, of any kind, used or intended to be used in the performance of a service;

“erect”, in relation to an abattoir, includes to equip, fit out or prepare a place for the slaughter of animals, and “erection” has a corresponding meaning;

“fixed equipment” means any equipment attached to the land taken up by an abattoir or to a building or structure which forms part of an abattoir;

“inspector” means a person designated in terms of section 31(1) as an inspector;

“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);

**[The Republic of South Africa Constitution Act 32 of 1961 was South Africa's constitution from 1961 to 1984. Although this Act had implications for South-West Africa, it does not appear to have been directly applicable as a law of South West Africa. It was repealed on 3 September 1984 by the Republic of South Africa Constitution Act, 1983, although some provisions relating to provincial government were retained under the new name of the Provincial Government Act 32 of 1961. Local authorities in Namibia are governed by the Local Authorities Act 23 of 1992.]**

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“Minister” means the Minister of Agriculture;

“operator” means a person, other than the owner of an abattoir, who carries on a business for his own account and who for the purposes of such a business uses an abattoir to perform a service;

“owner”, in relation to an abattoir, means the person in whom the ownership of the abattoir is vested or, in the case of any abattoir in respect of which the right of general control is vested in a person other than the person in whom the ownership is vested, that other person;

“prescribed” means prescribed by regulation;

“proclaimed area” means any area which the State President may from time to time by proclamation in the *Gazette* declare to be a proclaimed area for the purposes of this Act;

“product” any portion of a slaughtered animal including any object derived from such portion through processing;

“regulation” means a regulation made in terms of this Act;

“scheme” the Livestock and Meat Control Scheme promulgated by Proclamation No. 200 of 1964;

“Secretary” the Secretary of the Department;

“service” means any act performed at an abattoir -

- (a) in connection with the acceptance, keeping or care of animals intended to be slaughtered at such abattoir;
- (b) in connection with the slaughter of animals at such abattoir;
- (c) in connection with the treatment, processing, keeping or sale of products at such abattoir;
- (d) by an authorized operator in connection with the application of the scheme at such abattoir;
- (e) in connection with the management and conduct of such abattoir;

“slaughter”, in relation to an animal, means to kill with the intention of using the products derived from the animal for consumption by human beings or animals;

“special account” means the special account referred to in section 29;

“the territory” means the territory of South West Africa;

“this Act” includes the regulations;

“unit” means one head of cattle, or one horse, or one mule, or one donkey, or fifteen sheep or goats or sheep and goats together, or five pigs or three calves.

## CHAPTER 1

## CONTROL OF ABATTOIRS

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**Establishment and object of Abattoir Commission**

2. (1) There is hereby established a body to be known as the Abattoir Commission.

(2) The object of the Commission shall be to advise the Minister and all persons concerned in the abattoir industry on all matters in connection with abattoirs and to assist the Minister in order to bring about the co-ordination and rationalization of such matters.

**Functions and powers of Commission**

3. (1) For the purpose of achieving the object for which it is established, the Commission may -

- (a) give advice and guidance in connection with the siting, design, planning, erection, alteration, extension, use, closing and the management and conduct of abattoirs and the performance of services;
- (b) give advice on the measures which are necessary or desirable in order to ensure that abattoirs are managed and conducted and services are performed in a manner which is orderly, economical and effective;
- (c) with the consent of the Minister, gather and process technical and other information;

[Section 3(2) of the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation, AG 18/1977, provided that notwithstanding section 3(2)(b) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, the reference to the Minister of Agriculture in paragraph (c) was to be construed as a reference to the Administrator-General.]

- (d) require persons concerned in the management and conduct of abattoirs or the performance of services to supply, in connection with such management, conduct or performance, the information determined by it, and require such persons to give the aid and assistance which may be reasonably necessary for the gathering and the rendering available of information required by it;
- (e) generally, with the approval of the Minister, do such things as will, in the opinion of the Commission, be beneficial to the abattoir industry.

[Section 3(2) of the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation, AG 18/1977, provided that notwithstanding section 3(2)(b) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, the reference to the Minister of Agriculture in paragraph (e) was to be construed as a reference to the Administrator-General.]

(2) The work incidental to the carrying out of the functions or the exercise of the powers of the Commission shall be performed under the directions and control of the Secretary by officers in the public service serving in the Department and designated for the purpose by the Secretary.

**Constitution of Commission**

4. (1) The Commission shall consist of not fewer than three and not more than five members as may be determined by the Minister from time to time.

(2) The members of the Commission shall be appointed by the Minister.

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(3) At least one of the members of the Commission shall be designated by the Minister to occupy himself full-time with the affairs of the Commission: Provided that if a member so designated is absent or unable to perform his duties, the Minister may designate another member of the Commission or a temporary member referred to in section 6 to perform, during such absence or incapacity, the duties of the absent member.

**Period of office and remuneration of members of Commission**

5. (1) A member of the Commission shall be appointed for such period, not exceeding five years, as the Minister may determine at the time of appointment.

(2) Any person whose period of office as a member of the Commission has expired, shall be eligible for re-appointment.

(3) A member of the Commission, other than a person who is an officer in the service of the State, shall hold office upon such conditions (including the payment of remuneration and allowances) as the Minister may with the consent of the Minister of Finance determine.

(4) Any remuneration or allowances which may become payable under subsection (3) or section 6(1) shall be paid from moneys appropriated by Parliament for the purpose.

**Appointment of temporary member of Commission**

6. (1) The Minister may, if he deems fit, appoint a person, for a period not exceeding three months, as a temporary member of the Commission on such conditions (including the payment of remuneration and allowances, if such person is not an officer in the service of the State) as he may with the consent of the Minister of Finance determine.

(2) Such temporary member shall hold office during the period for which he is appointed as if he were a member of the Commission: Provided that the Commission, including a member thus appointed, shall not consist of more than five members.

**Vacation of office by members of Commission and filling of vacancies**

7. (1) A member of the Commission shall vacate his office -

(a) if his estate is sequestrated or a notice is published in respect of him in terms of section 22(1) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966);

**[The Agricultural Credit Act 28 of 1966 was repealed  
by the Agricultural Bank of Namibia Act 5 of 2003.]**

(b) if he becomes mentally ill as defined in the Mental Health Act, 1973 (Act No. 18 of 1973);

(c) if he is convicted of an offence and is sentenced to imprisonment without the option of a fine;

(d) if he resigns as a member;

(e) if he is removed from office in terms of subsection (2);

(f) upon his election as a member of the Senate, the House of Assembly or a Provincial Council or the Legislative Assembly of South West Africa or a local authority;

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(g) upon the attainment of the age of seventy years.

(2) A member of the Commission may at any time be removed from office by the State President.

(3) If a member of the Commission who is not a temporary member ceases to hold office, the Minister shall appoint a person to fill the vacancy.

**Chairman and acting chairman**

8. (1) The Minister shall designate one of the members of the Commission as chairman.

(2) If the chairman of the Commission ceases to hold office as a member of the Commission or as chairman of the Commission the Minister shall, subject to the provisions of subsection (1), designate a new chairman.

(3) Whenever the chairman of the Commission is absent or is unable to perform his functions as chairman, the Minister may designate another member or a temporary member referred to in section 6 to act as chairman during such absence or incapacity.

(4) Such member shall while acting as chairman have all the powers and perform all the functions of the chairman.

**Meetings and decisions of Commission**

9. (1) A meeting of the Commission shall be held at a time and place to be determined by the chairman of the Commission.

(2) The chairman of the Commission, or the person designated under section 8(3) to act as chairman of the Commission, as the case may be, and one other member of the Commission, if it consists of three members, or two other members of the Commission, if it consists of four or five members, shall constitute a quorum for any meeting of the Commission.

(3) The decision of a majority of the members of the Commission present at a meeting of the Commission, shall constitute a decision of the Commission, and in the event of an equality of votes in regard to any matter, the chairman of the Commission, or the person designated under section 8(3) to act as chairman of the Commission, as the case may be, shall have a casting vote in addition to his deliberative vote: Provided that a decision taken at a meeting of the Commission in respect of which the chairman of the Commission or such person, as the case may be, and one other member thereof constitute a quorum and at which only the chairman of the Commission or such person, as the case may be, and one other member thereof, are present, shall not constitute a decision of the Commission unless the decision is taken unanimously.

(4) No decision taken by the Commission or act performed under authority of the Commission, shall be invalid by reason only of a vacancy on the Commission or of the fact that a person who was not entitled to sit as member of the Commission sat as a member 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 Commission who were present at the time and entitled to sit as members.

**Prohibition of unauthorized erection of abattoir in proclaimed area**



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**10.** (1) No person shall erect an abattoir in a proclaimed area without the prior written approval of the Minister.

(2) The Minister shall not give his approval under subsection (1), unless he has consulted with the Commission.

(3) The Minister may prohibit the owner of an abattoir erected in a proclaimed area without the prior written approval of the Minister, from using or permitting the use of such abattoir for the slaughter of animals.

**Application for approval to erect abattoir in proclaimed area**

**11.** Every application for approval to erect an abattoir in a proclaimed area shall be made to the Minister in the prescribed manner and shall be accompanied by the prescribed amount and particulars and such other particulars as may be required by the Minister in connection therewith.

**Procedure in connection with application for approval**

**12.** (1) Upon receipt of an application referred to in section 11 the Minister shall give notice thereof in the prescribed manner and shall request interested persons to submit to the Minister written representations or objections in connection with the application in the prescribed manner within a specified period which shall not be less than four weeks as from the date on which notice was thus given.

(2) After consideration of the representations or objections referred to in subsection (1), the Minister shall either refuse such application or, subject to the conditions he may determine, grant it: Provided that the Minister may direct the Commission to conduct an enquiry in terms of section 27 before deciding on the application.

(3) The conditions referred to in subsection (2) may also relate to -

- (a) the place where the abattoir is to be erected;
- (b) the fitting out and preparation of the abattoir for the performance of services;
- (c) the provision of facilities at the abattoir;
- (d) the installation and provision of equipment at the abattoir;
- (e) the lay-out, size and capacity of the abattoir;
- (f) any other matter which is, in the opinion of the Minister, connected with the aforesaid matters.

**Prohibition of unauthorized alterations of abattoir in in proclaimed area**

[The word "in" is repeated in this heading.]

**13.** (1) No person shall without the prior written approval of the Minister -

- (a) substantially alter the lay-out of any abattoir in a proclaimed area;
- (b) demolish, remove or substantially alter a building, structure or fixed equipment which forms part of such abattoir; or

(c) erect or install a building, structure or fixed equipment at such abattoir.

(2) The Minister shall not grant his approval in terms of subsection (1), unless he has consulted with the Commission.

(3) The Minister may by means of a written order direct a person who without the prior written approval of the Minister-

(a) has substantially altered the lay-out of an abattoir in a proclaimed area, to restore such layout within a specified period to the state in which it was before the alteration;

(b) has demolished or removed or substantially altered a building, structure or fixed equipment forming part of such abattoir, to restore such building, structure or fixed equipment within a specified period to the state in which it was before the demolition, removal or alteration;

(c) has erected or installed a building, structure or fixed equipment at such abattoir, to demolish or to remove such building, structure or fixed equipment within a specified period.

(4) Such order shall be served upon the person referred to in subsection (3) and, if such person is not the owner of the abattoir in question, upon the owner as well.

(5) If a person in respect of whom an order referred to in subsection (3) applies, fails to perform the acts directed to be performed by such order, the Minister may perform such acts and recover the costs incidental thereto from such person.

#### **Prohibition of use of abattoir in certain manner**

14. (1) The Minister may after consultation with the Commission by written notice to the owner of an abattoir prohibit the owner to use the abattoir or to allow it to be used in any manner other than in accordance with conditions determined by the Minister and specified in such notice.

(2) The Minister may by written notice to the owner of an abattoir amend or withdraw any prohibition or condition imposed in terms of subsection (1) in respect of such abattoir -

(a) on the recommendation of the Commission; or

(b) on the application of the owner and after consultation with the Commission:

Provided that the Minister may direct the Commission, in the case of such recommendation, or the owner, in the case of such application, to give notice in a specified manner of the recommendation or application (as the case may be) and to request interested persons to submit to the Minister within a specified period representations or objections in connection with the recommendation or application.

(3) The conditions referred to in subsection (1) may also relate to -

(a) the number of units or the number of animals of a specified kind or class which may be slaughtered during a specified period at the abattoir;

(b) the kind or class of animals which may be slaughtered at the abattoir;

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- (c) the use of the abattoir by persons or classes of persons;
- (d) the use of the abattoir for the slaughter of animals with reference to the purpose for which the products of such animals are obtained or the manner in which such products will be dealt with;
- (e) the services which shall or may be performed at the abattoir;
- (f) the persons by whom and the manner in which services shall or may be performed at the abattoir;

(4) If an abattoir which is in existence at the commencement of this Act has been registered in terms of the Abattoir Commission Act, 1967 (Act No. 86 of 1967), subject to conditions, the owner of that abattoir shall be deemed to have been prohibited in terms of subsection (1) to use that abattoir or to allow it to be used in any manner other than in accordance with such conditions, and such conditions shall be deemed to have been imposed in terms of that subsection.

(5) A prohibition issued in terms of subsection (1) shall be binding upon every person who at any point of time is the owner of the abattoir in question.

**Certain notices to be displayed at abattoir**

**15.** (1) The owner of an abattoir shall cause every notice issued in terms of section 14(1) or (2) in respect of that abattoir to be displayed at all times in a conspicuous place at or near the main entrance of the abattoir.

(2) A certificate of registration issued in terms of the Abattoir Commission Act, 1967 (Act No. 86 of 1967), in respect of an abattoir shall for the purposes of subsection (1) be deemed to be a notice issued in terms of section 14(1) in respect of that abattoir.

**Minister may direct closure of abattoir in certain circumstances**

**16.** (1) If the Minister is of the opinion that the closure of an abattoir is in the general interest or is necessary for the attainment of the objects of this Act, he may, after consultation with the Commission, in writing direct that such abattoir be closed with effect from a date which shall be at least ninety days after the date of such direction.

(2) A direction in terms of subsection (1) shall be served upon the owner of the abattoir in question, and copies of the direction shall be served upon every operator who on the date of the direction performs services at such abattoir.

**Compensation payable in case of compulsory closure of abattoir**

**17.** (1) If an abattoir is closed in terms of section 16, there shall be paid to the owner of such abattoir and to every operator who on the date of the direction referred to in that section, performed services at such abattoir, an amount of compensation determined by such owner and operator and the Minister by agreement.

(2) In the absence of such agreement there shall be paid to such owner or operator an amount of compensation which does not exceed an amount required to make good any actual financial loss or inconvenience caused by the closure of the abattoir: Provided that no compensation shall be paid in respect of-

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- (i) any indirect damage or loss of profit caused by such closure;
- (ii) anything done with the object of obtaining compensation therefor;
- (iii) any alteration of the abattoir in question made in conflict with the provisions of section 13(1); or
- (iv) any agreement concluded in respect of the abattoir in question in conflict with the provisions of section 25(1).

(3) The amount to be paid under subsection (2) shall be determined by an appropriate court in terms of section 14 of the Expropriation Act, 1975 (Act No. 63 of 1975), and the provisions of that section and section 15 of that Act shall apply *mutatis mutandis* in the determination of that amount.

**[Only section 4 of the Expropriation Act 63 of 1975 was ever directly applicable to South West Africa, and that section was repealed by the National Transport Corporation Act 21 of 1987 (SWA) (which was repealed in turn by the National Transport Services Holding Company Act 28 of 1998). Expropriation of land for public purposes is covered in general by the Expropriation Ordinance 13 of 1978 (SWA). However, this provision appears to make the Expropriation Act 63 of 1975 applicable to South West Africa for certain limited purposes.]**

(4) No compensation shall be paid in terms of this section, unless the person who claims compensation submits an application in the prescribed form to the Minister and furnishes in connection with such application the prescribed particulars and such other particulars as may be required by the Minister in connection therewith.

(5) For the purposes of this section “owner” shall mean the person in whom the ownership of the abattoir in question is vested and, if the right of general control of such abattoir is vested in a person other than the person in whom the ownership is vested, that other person as well.

### **Closure of certain abattoir prohibited unless notice is given to Minister**

**18.** (1) A local authority shall not close any abattoir of which it is the owner and which is situated in a proclaimed area, unless it has given to the Minister, at least 180 days before the date on which it closes such abattoir, a written notice in the prescribed form in which it has notified its intention to close that abattoir: Provided that the Minister may in a particular case where the provisions of this subsection have not been complied with, allow the abattoir in question to be closed.

(2) The Corporation shall not close any abattoir of which it is the owner without the consent of the Minister.

### **Powers of Minister in case of closure or intended closure or disposal of certain abattoir**

**19.** (1) If an abattoir in a proclaimed area has been closed, or if the owner of such abattoir notifies his intention to close or to dispose of such abattoir, the Minister may after consultation with the Commission -

- (a) conclude an agreement with the owner of the abattoir in terms of which such owner undertakes to manage and conduct the abattoir for a specified period; or
- (b) in writing direct the Corporation to negotiate with such owner with a view to the transfer or letting of the abattoir to the Corporation.

(2) An agreement referred to in subsection (1) may make provision for the rendering of financial assistance to the owner concerned.

### **Erection of abattoir by Corporation or by local authority or person with whom Minister has concluded agreement**

**20.** (1) If the Minister after consultation with the Commission is of the opinion that the erection of an abattoir at a place situated within the area of jurisdiction of a local authority is necessary, he shall ascertain whether such authority is prepared to erect an abattoir at such place, and if such authority declares itself prepared to do so, the Minister shall conclude an agreement with such authority in terms of which such authority shall undertake to erect, either alone or in conjunction with other local authorities specified by the Minister an abattoir at such place: Provided that the Minister shall not conclude such agreement unless he has consulted with the Administrator of the province in question or the territory, as the case may be.

(2) If the Minister after consultation with the Commission is of opinion that the erection of an abattoir at a particular place is necessary and such place -

- (a) is situated within the area of jurisdiction of a local authority which is not prepared to conclude an agreement with the Minister to erect an abattoir at such place; or
- (b) is situated outside the area of jurisdiction of a local authority,

the Minister may order the Corporation in writing to erect, subject to such conditions as may be determined by the Minister, an abattoir at such place, or he may conclude an agreement with another person in terms of which such person undertakes to erect an abattoir at such place.

(3) An agreement concluded in terms of subsection (1) or (2) may contain conditions relating to the matters referred to in section 12(3).

(4) If a local authority with which or a person with whom the Minister has concluded an agreement in terms of subsection (1) or (2) fails to comply with the conditions of such agreement, the Minister may in writing direct such local authority or person to comply with such conditions within a period specified in the direction and may, if such person fails to do so, terminate the agreement.

(5) The State shall not pay any compensation in respect of anything done or any expenses incurred by the local authority or person referred to in subsection (4) in complying with the conditions of an agreement terminated in terms of that subsection, unless the Minister directs otherwise.

(6) The Minister shall not issue any order to the Corporation in terms of subsection (2), except with the consent of the Minister of Finance.

(7) If any person applies for the approval of the Minister in terms of section 10 for the erection of an abattoir at a place situated within the area of jurisdiction of a local authority and that local authority does not, when notice of such application is given under section 12, submit to the Minister any objection to the erection of an abattoir at that place by such person, the provisions of subsection (1) shall not apply in respect of the erection of the abattoir in question.

### **Fixing of certain tariffs by Minister**

**21.** (1) The Minister may, on recommendation of the Commission or on the application of the owner of an abattoir and after consultation with the Commission, from time to

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time fix the tariffs payable to the owner of an abattoir or an operator in respect of the use of such abattoir or the performance of a service.

(2) A tariff fixed in terms of subsection (1) may differ in respect of different abattoirs, different classes of abattoirs defined by the Minister, different services or different kinds or classes of animals, and may be fixed on any basis which the Minister deems fit.

(3) A tariff fixed in terms of subsection (1) shall be made known in a manner and shall come into operation on a date to be determined by the Minister.

- (4) No person shall in respect of the use of an abattoir or the performance of a service -
- (a) demand a tariff other or higher or lower than the tariff fixed by the Minister in respect thereof; or
  - (b) if no tariff has been fixed in respect thereof by the Minister, demand a tariff other or higher or lower than the tariff demanded in respect thereof immediately before the commencement of this Act.

**Orders by Minister**

**22.** (1) The Minister may from time to time, after consultation with the Commission, in respect of all abattoirs situated in a proclaimed area or a particular abattoir or specified classes of such abattoirs defined by him, issue to a specified person or to specified classes of persons the orders which he deems necessary for the achievement of the objects of this Act.

- (2) An order issued in terms of subsection (1) may direct -
- (a) that the owner of an abattoir -
    - (i) shall manage and conduct such abattoir in a specified manner;
    - (ii) shall replace, remove, improve or repair equipment in use at such abattoir;
    - (iii) shall provide equipment at such abattoir;
    - (iv) shall erect buildings or structures at such abattoir;
    - (v) shall alter, repair or demolish buildings or structures at such abattoir;
    - (vi) shall alter the lay-out or construction of such abattoir;
    - (vii) shall provide facilities for the performance of services at such abattoir;
    - (viii) shall withdraw facilities provided for the performance of services at such abattoir;
    - (ix) shall comply with the instructions of the code;
  - (b) that a person who performs a service (including the owner of the abattoir in question) -
    - (i) shall make use of specified equipment or facilities in the performance of such service;

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- (ii) shall perform such service in a specified manner or shall co-ordinate the performance of such service in a specified manner with the performance of other services performed at such abattoir;
- (iii) shall comply with the instructions of the code;
- (c) that a person, except an authorized operator, who performs a service shall suspend his performance of such service for a specified period or shall discontinue his performance thereof;
- (d) that a person who provides facilities for the performance of a service shall withdraw such facilities;
- (e) that a service may be performed only by the owner of the abattoir in question or by a specified person;
- (f) that the performance of a service shall be discontinued or be suspended for a specified period:

Provided that an order issued in terms of paragraph (e) or (f) shall not preclude an authorized operator from performing a service or oblige him to discontinue or suspend his performance of a service.

(3) If an owner of an abattoir in respect of whom an order referred to in subsection (1) applies, fails to comply with such order, the Minister may cause all acts directed to be performed in terms of such order to be performed and may recover the costs incidental thereto from such owner.

(4) If any person (except the owner of an abattoir or an authorized operator) in respect of whom an order referred to in subsection (1) applies, fails to comply therewith, the Minister may by means of an order and with effect from a date specified in such order preclude such person from performing any services at the abattoir in question.

(5) The Minister may at any time amend or withdraw an order issued in terms of subsection (1) or (4): Provided that if the owner of an abattoir in respect of whom an order referred to in subsection (2)(a) applies has commenced giving effect thereto, such order shall not be amended unless such owner consents thereto.

**Compensation payable in case of certain orders**

**23.** (1) An owner of an abattoir or an operator who performs a service at such abattoir who in terms of an order issued under section 22(1) is precluded from performing a service at such abattoir, or is directed to withdraw specified facilities, shall be paid such compensation as may be determined by such owner or operator (as the case may be) and the Minister by agreement.

(2) In the absence of such agreement there shall be paid to such owner or operator an amount of compensation not exceeding an amount required to make good any actual financial loss or inconvenience caused by complying with the order referred to in subsection (1): Provided that no compensation shall be paid in respect of -

- (i) any indirect damage or loss of profit thus caused;
- (ii) anything done with the object of obtaining compensation therefor;

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- (iii) any alteration of the abattoir in question made in conflict with the provisions of section 13(1); or
- (iv) any agreement concluded in respect of the abattoir in question in conflict with the provisions of section 25(1).

(3) The amount to be paid in terms of subsection (2) shall be determined by an appropriate court in terms of section 14 of the Expropriation Act, 1975 (Act No. 63 of 1975), and the provisions of that section and section 15 of that Act shall apply *mutatis mutandis* in the determination of that amount.

**[Only section 4 of the Expropriation Act 63 of 1975 was ever directly applicable to South West Africa, and that section was repealed by the National Transport Corporation Act 21 of 1987 (SWA) (which was repealed in turn by the National Transport Services Holding Company Act 28 of 1998). Expropriation of land for public purposes is covered in general by the Expropriation Ordinance 13 of 1978 (SWA). However, this provision appears to make the Expropriation Act 63 of 1975 applicable to South West Africa for certain limited purposes.]**

(4) No compensation shall be paid in terms of the provisions of this section unless the person claiming compensation submits an application in the prescribed form to the Minister and furnishes in connection with such application the prescribed particulars and such other particulars as may be required by the Minister.

(5) For the purposes of this section “owner” shall mean the person in whom the ownership of the abattoir in question is vested and, if the right of general control of such abattoir is vested in a person other than the person in whom the ownership is vested, that other person as well.

**Circumstances which may be used by Minister as basis for definition of classes of abattoirs**

**24.** Where a power is conferred upon the Minister by this Act to define classes of abattoirs, any of the following circumstances relating to an abattoir may be used as a basis for the definition -

- (a) the number of units or animals of a specified kind or class slaughtered there during a specified period;
- (b) the kind or class of animals slaughtered there;
- (c) whether or not it is situated within the area of jurisdiction of a local authority or a specified kind of local authority;
- (d) whether or not it is used for a public purpose;
- (e) whether it is erected temporarily or for an indefinite period;
- (f) whether or not a local authority or a local authority of a specified kind is the owner thereof;
- (g) whether or not the Corporation is the owner thereof;
- (h) whether or not the scheme is applied there;
- (i) whether or not it is used to slaughter animals in order to obtain products for export;  
or



- (j) any other circumstance which the Minister may deem fit.

### Prohibition of certain agreements

**25.** (1) No person shall without the prior written approval of the Minister conclude an agreement whereby a person is granted the right to use an abattoir for the performance of a service for a period of more than two years.

- (2) An agreement -
- (a) concluded for an indefinite period; or
- (b) which although concluded for a period of less than two years, confers on one of the parties thereto the right to extend it for an indefinite period or for a period which, if added to the period for which the agreement is concluded, exceeds two years,

shall for the purposes of subsection (1) be deemed to be an agreement concluded for a period of more than two years.

(3) The Minister shall not grant his approval in terms of subsection (1), unless he has consulted with the Commission.

### Code

**26.** (1) The Commission may draw up a code of instructions relating to the following matters -

- (a) the buildings, structures and equipment used at abattoirs and the materials and methods employed in the erection, installation, alteration, repair or improvement of such buildings, structures and equipment;
- (b) the facilities provided at abattoirs;
- (c) the planning, lay-out and construction of abattoirs;
- (d) the management and conduct of abattoirs;
- (e) the use and utilization of abattoirs;
- (f) the performance of services;
- (g) any matter relating to any of the preceding matters as well as any matter which in the opinion of the Commission should be dealt with in such code.

(2) The Commission shall submit a code drawn up under subsection (1) to the Minister for his approval.

(3) The Minister shall approve such code with such amendments as he may deem fit or without any amendments and shall cause such code to be published by notice in the *Gazette*.

(4) The provisions of a code published in terms of subsection (3) shall, subject to the provisions of section 22, not be binding upon any person.

(5) The Commission may from time to time draw up amendments to a code published in terms of subsection (3) and may submit such amendments to the Minister for his approval.

(6) The provisions of subsection (3) shall apply *mutatis mutandis* in respect of any amendment submitted to the Minister in terms of subsection (5).

### Enquiries

27. (1) The Minister may direct the Commission to conduct an enquiry into any matter relating to an abattoir or abattoirs.

(2) The Commission may for the purposes of an enquiry referred to in subsection (1) by registered letter signed by its chairman summon any person to give evidence at the enquiry or to produce any book, writing or thing which is, in the opinion of the Commission, relevant to the subject matter of the enquiry.

(3) The Commission may call and examine any person present at the enquiry, whether or not he has been summoned to attend in terms of subsection (2), and may inspect and retain for a reasonable period any book, writing or thing the production of which was required in terms of subsection (2): Provided that, in connection with the examination of any such person or the production of any such book, writing or thing, the law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, writing or thing before a court of law, shall apply.

(4) (a) Whenever the Commission deems it necessary to do so, it may direct any person to give his evidence on oath or affirmation.

(b) The chairman of the Commission may administer the oath to, or accept an affirmation from, the person concerned.

(5) Any person who has been summoned to give evidence at such enquiry shall be entitled to receive as witness fees from moneys appropriated by Parliament for the purpose an amount equal to the amount which he would have received as witness fees if he had been summoned to attend at a criminal trial in a superior court held at the place specified in the summons sent to him.

(6) No person may without the permission of the Commission attend such enquiry.

(7) The Commission may for the purposes of such enquiry at any reasonable time enter upon and inspect any land or premises.

(8) The Commission may for the purposes of such enquiry direct any person to furnish it with information in the form indicated by it.

### Levy

28. (1) The Minister may after consultation with the Commission from time to time impose a levy in respect of every animal slaughtered at an abattoir.

(2) A levy imposed in terms of subsection (1) shall be paid to the Minister, for the benefit of the special account, in the prescribed manner and within the prescribed period and either by the owner of the abattoir in question or an authorized operator or the person on whose behalf the animal in question was slaughtered, as may be determined in the regulations: Provided that if it is so determined that such owner or operator shall pay such levy, the regulations may provide that such levy may be recovered, in a manner determined in the

regulations, by such owner or operator, as the case may be, from the person on whose behalf such animal was slaughtered.

(3) A levy imposed under subsection (1) may differ in respect of different kinds or classes of animals and different classes of abattoirs defined by the Minister: Provided that the Minister may determine that no levy shall be payable in respect of an animal or kinds or classes of animals slaughtered at classes of abattoirs defined by the Minister.

(4) A levy imposed under subsection (1) shall be published by the Minister by notice in the *Gazette* and shall take effect on a date to be specified in such notice.

### Special account

29. (1) The Minister shall cause to be kept a special account which shall be credited with -

- (i) the proceeds of a levy imposed in terms of section 28; and
  - (ii) the moneys referred to in section 76(2)(a)(i).
- (2) The special account shall be audited by the Auditor-General.

### Utilization of special account

30. (1) The moneys in the special account shall be utilized for -

- (a) the payment of compensation in terms of section 17, 20(5), 23 or 34;
- (b) the tendering of financial aid in terms of section 19;
- (c) the payment of *ex gratia* payments in terms of section 76.
- (d) the defrayal of expenses incurred for the attainment of any object which the Minister may after consultation with the Commission deem to be beneficial to the abattoir industry.

(2) Moneys standing to the credit of the special account which are not required for immediate use in terms of subsection (1) shall be invested with the Public Debt Commissioners or in such other manner as the Minister may with the consent of the Minister of Finance determine.

### Inspectors

31. (1) The Minister may designate persons as inspectors to perform and to exercise the functions and powers referred to in subsection (4).

(2) Every inspector shall be furnished with a certificate signed by or on behalf of the Minister and stating that he has been designated as an inspector in terms of this Act.

(3) Where an inspector exercises or performs any power, duty or function in terms of this Act in the presence of any persons affected thereby, such inspector shall first exhibit the certificate referred to in subsection (2) to any of these persons.

(4) An inspector may for the purposes of this Act -

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- (a) without previous notice, at all reasonable times enter any abattoir or upon any premises from which an abattoir or the performance of a service is controlled, managed or conducted;
- (b) examine any book, writing or thing which relates to the management or conduct of an abattoir or the performance of a service, and require from the custodian or other person who has control over such book, writing or thing, an explanation of any entry therein;
- (c) question any person whom he reasonably believes to be in possession of information relating to the management or conduct of an abattoir or the performance of a service or any contravention or alleged contravention of any provision of this Act;
- (d) require the production of any account, invoice or writing issued by a person in connection with the management or conduct of an abattoir or the performance of a service, and require an explanation of any entry therein from such person or the custodian thereof; and
- (e) make extracts from or copies of any book, writing, thing, account or invoice referred to in paragraphs (b) and (d), and for the purposes of any proceedings against any person, seize any such book, writing, thing, account or invoice.

**Responsibilities and powers of owner of abattoir**

**32.** (1) The owner of an abattoir is responsible for the orderly and efficient management and conduct of such abattoir and for the orderly performance and efficient co-ordination of services at such abattoir.

(2) The owner of an abattoir may, subject to the provisions of this Act, the provisions of an order issued in terms of section 22 or the provisions of any condition imposed in terms of section 14 in respect of the use of an abattoir, issue to persons performing services at such abattoir such directions as may be necessary in order to enable such owner to comply with the provisions of subsection (1): Provided that no direction shall be issued to an authorized operator unless it is done with the consent of the Board.

(3) If a person to whom a direction has been issued in terms of subsection (2) fails to comply therewith, the owner of the abattoir in question may prohibit such person from performing any services at that abattoir notwithstanding the existence of an agreement between such owner and such person whereby a right is granted to such person to use the abattoir in question for the performance of a service.

(4) Any person in respect of whom a direction issued in terms of subsection (2) applies may lodge an objection thereto with the Minister in the prescribed manner.

(5) The Minister may of his own accord amend or withdraw a direction issued in terms of subsection (2) or may, after an objection thereto has been lodged in terms of subsection (4), confirm, amend or withdraw such direction.

(6) The Minister shall not exercise his powers conferred under subsection (5), except after consultation with the Commission.

(7) The owner of an abattoir shall forthwith inform the Minister of the failure by a person who performs services at the abattoir in question to comply with the provisions of this Chapter, a direction issued in terms of subsection (2) or an order issued in terms of section 22.

**Consultation by Minister**

- 33.** The Minister shall not take any decision -
- (a) which relates to an authorized person or to the situation, size, use and utilization or the capacity of an abattoir which is to be erected or to an alteration contemplated in section 13(1) of any abattoir where the scheme is being applied, unless he has consulted with the Board;
  - (b) which places a financial liability of a capital nature in relation to an abattoir on a local authority, unless he has consulted with the Administrator of the province in question or the territory, as the case may be.

**Minister may assign certain functions to Board or Corporation**

**34.** (1) The Minister may with the consent of the Board or Corporation, as the case may be, and subject to such conditions and limitations as may be determined by him, in writing assign to the Board or Corporation any function the performance of which the Minister considers necessary or desirable in order to enable him and the Commission to administer the provisions of this Chapter.

(2) The Board or Corporation may do anything necessary for the performance of any function assigned to it in terms of subsection (1).

(3) The Board or Corporation, as the case may be, may be paid such amounts as are necessary to compensate it for expenditure incurred in connection with the performance of any function assigned to it in terms of this section.

**Regulations**

- 35.** (1) The Minister may make regulations -
- (a) relating to the conduct of and procedure at meetings of the Commission;
  - (b) relating to the form and manner in which any application under this Chapter shall be submitted to the Minister;
  - (c) relating to the manner in which and the period within which a levy imposed in terms of section 28 shall be paid to the Minister and the payment of interest on the amount of an unpaid levy;
  - (d) prescribing the returns which shall be rendered by the owner of an abattoir or a person who performs a service;
  - (e) relating to any matter which by this Chapter is required or permitted to be prescribed;
  - (f) prescribing the manner of serving any order, notice, direction or document issued in terms of this Chapter and required by this Chapter to be served;
  - (g) prescribing, generally, all matters which he considers necessary or expedient to prescribe in order that the objects of this Chapter may be achieved, the generality of this provision not being limited by the provisions of the preceding paragraphs.

(2) Different regulations may be made in terms of subsection (1) with regard to different classes of abattoirs and different kinds of applications required in terms of this Chapter.

(3) Regulations made in terms of this section may prescribe penalties for any contravention thereof or a failure to comply therewith, not exceeding a fine of two hundred rand or imprisonment for a period of six months.

(4) Any regulation made in terms of subsection (1) and relating to State revenue or expenditure shall be made with the consent of the Minister of Finance.

### **Preservation of secrecy**

**36.** No person shall disclose any information obtained by him in the exercise of his powers, the performance of his functions or the carrying out of his duties in terms of this Chapter, except -

- (a) to the extent to which it may be necessary for the proper administration of the provisions of this Chapter; or
- (b) for the purposes of any legal proceedings thereunder.

### **Offences and penalties**

**37.** Any person who -

- (a) without sufficient cause (the onus of proof whereof shall rest upon him) has failed to furnish the information or render the aid or assistance required of him in terms of section 3(1)(d);
- (b) has contravened the provisions of section 10(1), 13(1), 15(1), 18(1), 25(1) or 36;
- (c) has contravened a prohibition imposed in terms of section 10(3) or 14(1);
- (d) has contravened the provisions of section 21(4);
- (e) has failed to comply with an order issued in terms of section 13(3), 16(1) or 22(1);
- (f) has failed to pay a levy imposed in terms of section 28 in the prescribed manner or within the prescribed period;
- (g)
  - (i) having been summoned to give evidence at an enquiry in terms of section 27, without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend at the time and place specified in the summons, or fails to remain in attendance until the conclusion of the enquiry or until excused by the person presiding at the enquiry from further attendance, or fails to produce any book, writing or thing in his possession or custody or under his control, which he has been summoned to produce; or
  - (ii) having been called in terms of section 27, without sufficient cause (the onus of proof whereof shall rest upon him) refuses to be sworn or to make affirmation as a witness after he has been directed to do so, or refuses to testify, or refuses or fails to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him;

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- (h) (i) hinders or obstructs an inspector in the exercise of his powers or the carrying out of his duties under section 31; or
- (ii) without valid excuse refuses or fails to answer to the best of his ability any question which an inspector in the exercise of his powers or the carrying out of his duties under the said section has put to him; or
- (iii) refuses or fails to comply to the best of his ability with any requirement made by an inspector in the exercise of his powers or the carrying out of his duties in terms of the said section; or
- (iv) wilfully furnishes to an inspector any information which is false or misleading;
- (i) in any application in terms of this Chapter, knowingly furnishes information or makes a statement which is false or misleading;
- (j) contravenes a direction amended or confirmed in terms of section 32(5),

shall be guilty of an offence and liable on conviction 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 and, in the case of an offence referred to in paragraph (c), (d) or (e), an additional fine not exceeding twenty rand or four days' imprisonment for every day on which the offence continues.

**Proof of certain facts, and special defence**

**38.** (1) Whenever upon the trial of any person charged with a contravention of a provision of this Chapter the question arises whether a person bearing a particular name -

- (a) did or did not within a particular period furnish the Minister with a particular return; or
- (b) did or did not pay to the Minister within a particular period a particular levy, or a portion thereof,

a writing purporting to be an affidavit made by a person who in that affidavit alleges that he is an officer in the service of the State serving in the Department and that no person bearing that name furnished the Minister within such period with such return, or paid to the Minister within such period such levy or portion thereof, as the case may be, shall on its mere production at that trial by any person be *prima facie* proof of the facts stated therein.

(2) Whenever upon the trial of a person charged with a contravention of a provision of this Chapter, it is proved that a false statement was made or that false information was furnished by such person, such person shall, unless the contrary is proved, be deemed to have made that statement or to have furnished that information knowing it to be false.

(3) It shall be a defence to a charge that the accused contravened a prohibition imposed in terms of section 14 if the accused proves that the notice containing the prohibition was not issued to him and that he was unaware at the time of the alleged commission of the offence charged that such notice had been issued, despite the fact that he took reasonable steps to ascertain whether such notice had been issued, including the making of written enquiries to the Secretary.

**Act or omission of manager, agent or employee**

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**39.** (1) Whenever any manager, agent or employee of any person (hereinafter called the employer) does or omits to do any act which it would be an offence under this Act for the employer to do or to omit to do, then, unless it is proved that -

- (a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or the permission of the employer; and
- (b) all reasonable steps were taken by the employer to prevent any act or omission of the kind in question; and
- (c) it was not under any condition or in any circumstances 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 any act, whether lawful or unlawful, of the character of the act or omission charged,

the employer himself shall be presumed to have done or omitted to do that act and shall be liable to be convicted and sentenced in respect thereof; and the fact that he issued instructions forbidding any act or omission of the kind in question shall not, in itself, be accepted as sufficient proof that he took all reasonable steps to prevent the act or omission.

(2) Whenever any manager, agent or employee of any such employer does or omits to do an act which it would be an offence in terms of this Act for the employer to do or omit to do, he shall be liable to be convicted and sentenced in respect thereof as if he were the employer.

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

**Additional fines**

**40.** Whenever a person is convicted of an offence referred to in section 37(f) the court convicting him shall, in addition to any punishment imposed in respect of that offence, forthwith give judgment against that person and in favour of the Minister, for the benefit of the special account, for the amount the court finds is due to the Minister by that person, and such judgment may be executed in the same manner as if it had been pronounced in the course of civil proceedings.

**Jurisdiction of magistrate's court**

**41.** Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act or to make any order provided for by this Act.

**Exclusion of areas, abattoirs or animals and exemption of persons**

**42.** (1) The State President may by proclamation in the *Gazette* exclude from the operation of any or all of the provisions of this Chapter -

- (a) any area specified in the proclamation or any area other than an area so specified;
- (b) any abattoir so specified or any abattoir other than an abattoir so specified;
- (c) any class of abattoirs so specified or any class of abattoirs other than a class of abattoirs so specified;



- (d) any animal or kind or class of animal either generally or in respect of an area specified in the proclamation or any area other than an area so specified.

(2) The State President may by proclamation in the *Gazette* and subject to such conditions as he may determine, exempt any person or category of persons specified in the proclamation either generally or under such circumstances or in respect of such animals or class or kind of animals or class of abattoirs as may be specified in the proclamation from compliance with any or all of the provisions of this Chapter.

(3) The State President may at any time by proclamation in the *Gazette* amend or repeal any proclamation issued in terms of this section.

### **Exclusion of certain abattoirs**

**43.** The provisions of this Chapter shall not apply in respect of any abattoir where animals are slaughtered exclusively by or on behalf of the owner of such abattoir, provided -

- (a) the meat derived from such animals is exclusively used -
- (i) for consumption by such owner, his household and guests;
  - (ii) for consumption by his employees, including their households and guests;
  - (iii) for sale, in the form of meat, by that owner directly to persons other than dealers in or processors of meat; and
- (b) the number of animals slaughtered during a prescribed period does not exceed a prescribed number.

## CHAPTER 2

### SOUTH AFRICAN ABATTOIR CORPORATION

#### **Establishment of South African Abattoir Corporation**

**44.** There is hereby established a juristic person to be known as the South African Abattoir Corporation.

#### **Objects of Corporation**

**45.** (1) The objects of the Corporation shall be, in accordance with a policy determined by the Minister, to erect, hire, purchase or otherwise acquire abattoirs in the general interest, to manage and conduct such abattoirs on a utility basis and in a manner which is economical, orderly and effective and, generally, to give such aid and assistance as the Minister may require of it in order to achieve the objects of Chapter 1.

(2) Subsection (1) shall not be construed so as to authorize the Corporation to deal in products, other than abattoir waste.

#### **Functions and powers of Corporation**

**46.** The functions of the Corporation shall be to endeavour to achieve the objects for which it is established with all the means at its disposal, and for the purpose of achieving those objects the Corporation may, subject to the provisions of this Act -

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- (a) (i) acquire or hire movable or immovable property;
- (a) (ii) hypothecate, let, sell or otherwise dispose of movable or immovable property of the Corporation;
- (b) cause the work incidental to the performance of its functions and the exercise of its powers to be performed by -
  - (i) persons employed by it on conditions determined by it;
  - (ii) persons with whom it has entered into contracts for the performance of any particular act or particular work or the rendering of particular services;
- (c) with the prior approval of, and on conditions determined by the Minister with the consent of the Minister of Finance, borrow and invest money;
- (d) with the approval of the Minister accept money and property which is given to the Corporation by way of donation, award or otherwise;
- (e) open accounts with banking institutions;
- (f) adopt such measures as it may deem necessary or desirable in order to ensure that abattoirs of which it is the owner are managed and conducted, and that services are performed at such abattoirs in a manner which is, in its opinion, orderly, economical and effective;
- (g) advise the Minister and the Commission on such matters relating to abattoirs as may be specified by the Minister or Commission;
- (h) undertake studies and make experiments in connection with the management and conduct of abattoirs or the performance of services;
- (i) gather and process technical and other information in connection with the design, planning, management and conduct of abattoirs or the performance of services;
- (j) with the approval of the Minister, collaborate with anyone in the performance of any act which the Corporation is by law permitted to perform;

[Section 3(2) of the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation, AG 18/1977, provided that notwithstanding section 3(2)(b) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, the reference to the Minister of Agriculture in paragraph (j) was to be construed as a reference to the Administrator-General.]

- (k) become a member of an association or organization which exerts itself for the promotion of knowledge and the development of trades and occupations related to the abattoir trade;
- (l) generally, with the approval of the Minister, do such things as will in the opinion of the Corporation contribute towards the attainment of its objects.

[Section 3(2) of the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation, AG 18/1977, provided that notwithstanding section 3(2)(b) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, the reference to the Minister of Agriculture in paragraph (l) was to be construed as a reference to the Administrator-General.]

**Board of directors of Corporation**

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**47.** (1) The affairs of the Corporation shall be managed and controlled by a board of directors which may exercise the powers of the Corporation.

(2) The board of directors shall consist of five persons to be appointed by the Minister, of whom -

- (a) three shall be appointed by reason of their knowledge of trade and industry or administrative matters or the management and conduct of abattoirs;
- (b) one shall be nominated by the Commission from among its members to represent the Commission;
- (c) one shall be nominated by the Board from among its members to represent the Board.

(3) No person who is an officer in the service of the State shall be appointed as a director, except any such officer who as a member of the Commission or Board is appointed to represent the Commission or the Board.

**Period of office and remuneration of directors**

**48.** (1) A director shall be appointed -

- (a) in the case of a director referred to in section 47(2)(a), for such period, not exceeding five years, as the Minister may determine at the time of appointment: Provided that a director who after his appointment as a director is appointed as managing director in terms of section 51(1), shall not cease to be a director upon the expiration of his period of office as a director in terms of this section but shall continue to hold office as a director for as long as he acts as managing director;
- (b) in the case of a director referred to in section 47(2)(b) or (c), for a period which terminates on the date on which his current appointment as a member of the Commission or Board, as the case may be, terminates.

(2) Any person whose period of office as a director has expired, shall subject to the provisions of section 47(2) be eligible for re-appointment.

(3) A director shall hold office upon such conditions (including the payment of remuneration and allowances) as the Minister may with the consent of the Minister of Finance determine.

**Vacation of office by directors and filling of vacancies**

**49.** (1) A director shall vacate his office -

- (a) if his estate is sequestrated or a notice is published in respect of him under section 22(1) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966);

**[The Agricultural Credit Act 28 of 1966 was repealed  
by the Agricultural Bank of Namibia Act 5 of 2003.]**

- (b) if he becomes mentally ill as defined in the Mental Health Act, 1973 (Act No. 18 of 1973);

- (c) if he is convicted of an offence and is sentenced to imprisonment without the option of a fine;
  - (d) if he resigns as a director;
  - (e) if he is removed from office in terms of subsection (2);
  - (f) upon his election as member of the Senate, the House of Assembly or a Provincial Council or the Legislative Assembly of South West Africa or a local authority;
  - (g) upon his appointment as an officer in the service of the State;
  - (h) upon the attainment of the age of seventy years.
- (2) A director may at any time be removed from office by the State President.

(3) If a director ceases to hold office, the Minister shall, subject to the provisions of section 47(2), appoint a person to fill the vacancy on the board of directors.

#### **Chairman and acting chairman**

**50.** (1) The Minister shall designate one of the directors as chairman of the board of directors of the Corporation.

(2) If the chairman of the board of directors ceases to hold office as director or as chairman of the board of directors, the Minister shall subject to the provisions of subsection (1) designate a new chairman.

(3) Whenever the chairman is absent or is unable to perform his functions as chairman, the Minister may designate another director to act as chairman during the absence or incapacity of the chairman.

(4) Such director shall while acting as chairman have all the powers and perform all the functions of the chairman.

#### **Managing director**

**51.** (1) The Minister shall appoint one of the directors referred to in section 47(2)(a) as managing director of the Corporation.

(2) The managing director shall be the chief executive officer of the Corporation and shall occupy himself full-time with the affairs of the Corporation.

(3) The managing director shall hold office on such conditions (including the payment of remuneration and allowances) as the Minister may with the consent of the Minister of Finance determine: Provided that any person who holds office as managing director may take part in or become a member of any staff scheme established by the Corporation as a service benefit for its employees.

#### **Vacation of office by managing director**

- 52.** (1) The managing director of the Corporation shall vacate his office -
- (a) if he ceases to be a director;

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- (b) if he resigns as managing director;
- (c) if he is removed from office under subsection (2).

(2) The managing director may at any time be removed from office by the Minister.

(3) If the managing director ceases to hold office, the Minister shall within a reasonable time and subject to the provisions of section 51(1) appoint any other director as the managing director.

**Meetings and decisions**

**53.** (1) A meeting of the board of directors of the Corporation shall be held at a time and place to be determined by the chairman of the board.

(2) The chairman of the board of directors, or the person designated under section 50(3) to act as chairman, as the case may be, and two other directors shall constitute a quorum for any meeting of the board.

(3) The decision of the majority of the directors present at a meeting of the board, shall constitute a decision of the board of directors, and in the event of an equality of votes relating to any matter the chairman of the board or the person designated under section 50(3) to act as chairman of the board, as the case may be, shall have a casting vote in addition to his deliberative vote.

(4) No decision taken by the board of directors or act performed under authority of the board shall be invalid by reason only of a vacancy on the board or of the fact that a person who is not entitled to sit as a director sat as a director 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 directors who were present at the time and entitled to sit as directors.

**Minister or designated officer may attend meetings of board of directors**

**54.** The Minister or any officer in the service of the State designated for this purpose by the Minister, may attend any meeting of the board of directors but shall not be entitled to take part in the proceedings at such meeting or to vote.

**Minutes**

**55.** (1) The Corporation shall cause minutes of the proceedings at meetings of the board of directors to be entered in one of the official languages of the Republic in a minute-book kept for that purpose at the head office of the Corporation.

[The term “official languages” refers to the period before independence when English and Afrikaans were both official languages of “South West Africa”. The only official language of Namibia is English (Namibian Constitution, Art 3(1)).]

(2) The minutes of any meeting of the board of directors purporting to be signed by the chairman of the board or the person designated under section 50(3) to act as chairman of the board, as the case may be, shall in any court of law be *prima facie* proof of the taking place of anything which according to such minutes took place at such meeting.

(3) The Minister may at any time require a minute-book of the Corporation to be submitted to him for inspection.

### Interest of director in certain contract to be disclosed

**56.** (1) The provisions of sections 234(1), (2), (3) and (5), 235, 237(1) and (4) of the Companies Act, 1973 (Act No. 61 of 1973), shall *mutatis mutandis* apply in respect of a director, and in such application, unless the context otherwise indicates, any reference therein to a company, a director or an officer of a company shall be construed as a reference to the Corporation, a director or an officer of the Corporation, as the case may be.

(2) Any director who fails to comply with a provision of the Companies Act, 1973, as applied by subsection (1), shall be guilty of an offence and liable on conviction 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.

(3) Any declaration of interest made in terms of subsection (1), shall be recorded in the minutes of the meeting of the board of directors at which the declaration was made.

[The Companies Act 61 of 1973 has been replaced by  
the Companies Act 28 of 2004.]

### Insurance

**57.** The Corporation may provide insurance cover -

- (a) for a director in respect of bodily injury, disablement or death resulting solely and directly from an accident occurring in the course of the performance of his duties as a director; and
- (b) for the Corporation against any loss, damage, risk or liability which it may suffer or incur.

### Acquisition or hire of abattoir by Corporation

**58.** (1) The Corporation may acquire or hire any abattoir in any proclaimed area.

(2) Any agreement for the acquisition or hire of an abattoir referred to in subsection (1) shall not be binding on any party thereto unless the agreement has been confirmed by the Minister after consultation with the Commission.

### Expropriation of certain abattoir by Minister for benefit of Corporation

**59.** (1) The Minister may after consultation with the Commission expropriate for the benefit of the Corporation any abattoir which is situated within any proclaimed area and which has been closed or in respect of which the owner thereof has notified his intention to close or to dispose of it -

- (a) if the owner of such abattoir is not prepared to conclude an agreement referred to in section 19(1)(a); or
- (b) if the Corporation, after a direction in terms of section 19(1)(b) had been served upon it, was unable to acquire such abattoir on reasonable terms.

(2) The Minister shall not exercise his powers in terms of subsection (1) except with the consent of the Minister of Finance.

### Erection of abattoir by Corporation

**60.** (1) If the Minister has directed the Corporation in terms of section 20(2) to erect an abattoir, the Corporation shall erect that abattoir at the place in question, in accordance with such conditions as may be determined in terms of that section.

(2) If the Corporation is unable to acquire the land required for the erection of the abattoir on reasonable terms, the Minister may expropriate such land for the benefit of the Corporation.

#### **Expropriation of land for extension of abattoirs and certain other purposes**

**61.** The Minister may for the benefit of the Corporation or any other person expropriate land which is required -

- (a) for the extension of any abattoir of which the Corporation is the owner; or
- (b) for the handling, treatment, storage, packing, cooling, freezing, sale, distribution or processing of products of animals slaughtered at any abattoir of which the Corporation is the owner,

if the Minister is satisfied that the Corporation or such person, as the case may be, is unable to acquire that land on reasonable terms.

#### **Application of certain provisions of the Expropriation Act, 1975**

**62.** (1) Subject to the provisions of subsection (2), the provisions of sections 6 to 23 of the Expropriation Act, 1975 (Act No. 63 of 1975), shall apply in respect of an expropriation in terms of section 59, 60 or 61.

(2) Any abattoir or land which is expropriated in terms of section 59, 60 or 61 for the benefit of the Corporation or another person, shall become the property of the Corporation or such person (as the case may be), and the expropriation notice of the Minister shall be authority to the registrar of deeds concerned to register transfer of such land in the name of the Corporation or such person.

(3) All costs incurred by the Minister in the performance of his functions in respect of the expropriation of any abattoir or land in terms of section 59, 60 or 61 for the benefit of the Corporation or another person, shall be refunded to the Minister by the Corporation or such person (as the case may be).

**[Only section 4 of the Expropriation Act 63 of 1975 was ever directly applicable to South West Africa, and that section was repealed by the National Transport Corporation Act 21 of 1987 (SWA) (which was repealed in turn by the National Transport Services Holding Company Act 28 of 1998). Expropriation of land for public purposes is covered in general by the Expropriation Ordinance 13 of 1978 (SWA). However, this provision appears to make the Expropriation Act 63 of 1975 applicable to South West Africa for certain limited purposes.]**

#### **Fees, duties and other charges to be paid in respect of expropriation**

**63.** In respect of the expropriation of any abattoir or land in terms of section 59, 60 or 61 there shall be payable by the Corporation or, in the case of an expropriation for the benefit of another person, such person, such fees, duties (except transfer duty) and other charges as would have been payable if the Corporation or such person had purchased such abattoir or land.

#### **Inspection of abattoir or land for purposes of expropriation**

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**64.** (1) If the expropriation of any abattoir or land in terms of section 59, 60 or 61 is contemplated by the Minister, he may authorize any person to enter that abattoir or to enter upon that land with the necessary workmen, equipment and vehicles, and -

- (a) may perform or cause to be performed all acts which may be necessary to enable him to come to a decision in regard to the contemplated expropriation;
- (b) may demarcate or cause to be demarcated the boundaries of any abattoir or land which may be required:

Provided that such person shall not, without the consent of the owner or occupier, enter any building or enter upon any enclosed yard or garden attached to any building, unless he has given the owner or occupier at least twenty-four hours' notice of his intention to do so.

(2) If any person has suffered any damage as a result of the exercise of any power conferred in terms of subsection (1), the Corporation or, in the case of any expropriation for the benefit of another person, such person, shall pay compensation for any such damage.

- (3) (a) The amount of such compensation shall in the absence of an agreement be determined by the court.
- (b) Any proceedings for the determination of such compensation shall be instituted within six months after the cause of action arose, and written notice of any such proceedings and cause of action shall be given by the plaintiff to the defendant not less than one month before the proceedings are instituted.

**Book-keeping**

**65.** (1) The Corporation shall keep in one of the official languages of the Republic such account books as are necessary to represent fairly the state of affairs and business of the Corporation and to explain the transactions and financial position of the business of the Corporation, including -

- (a) records showing the assets and liabilities of the Corporation;
- (b) a register of fixed assets showing the respective dates of acquisitions and the cost thereof, depreciation, if any, the respective dates of any disposals and the consideration received in respect thereof;
- (c) books containing daily entries in sufficient detail of all cash received and paid out and of the matters in respect of which receipts and payments take place;
- (d) where the business of the Corporation has involved dealings in goods, records of all goods sold and purchased and records showing the goods and the buyers and the sellers thereof in sufficient detail to enable the nature of those goods and those buyers and sellers to be identified; and
- (e) statements of an annual stocktaking.

[The term "official languages" refers to the period before independence when English and Afrikaans were both official languages of "South West Africa". The only official language of Namibia is English (Namibian Constitution, Art 3(1)).]



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(2) In order to be able to comply with the provisions of section 66(2), the Corporation shall keep separate records, books and statements (except the register contemplated in subsection (1)(b)) in respect of the different abattoirs of which it is the owner.

(3) The records referred to in subsections (1) and (2) may be kept either by making entries in bound books or by recording the matters in question in any other manner, and where such records are not kept by making entries in bound books, adequate precautions shall be taken for guarding against falsification and for the detection of falsification.

**Annual financial statements**

**66.** (1) The Corporation shall in respect of every financial year of the Corporation cause annual financial statements to be made out in both official languages of the Republic and shall submit such statements, after having been audited as contemplated in section 68, to the Minister within six months after the end of the financial year in question, together with a copy of the report on the audit in question.

[The term “both official languages” refers to the period before independence when English and Afrikaans were both official languages of “South West Africa”. The only official language of Namibia is English (Namibian Constitution, Art 3(1)).]

- (2) The annual financial statements referred to in subsection (1) shall consist of -
- (a) a balance sheet dealing separately with the state of affairs of each abattoir of the Corporation;
  - (b) a consolidated balance sheet dealing collectively with the state of all the affairs of the Corporation;
  - (c) an income statement dealing separately with the profit or loss of each abattoir of the Corporation;
  - (d) a consolidated income statement dealing with the profit or loss of the Corporation;
  - (e) an auditor’s report in respect of the annual audit in question.

(3) The annual financial statements of the Corporation shall, in accordance with generally accepted accounting practice, represent fairly the state of affairs of the Corporation and its business as at the end of the financial year in question and the profit or loss of the Corporation for that financial year, and shall for that purpose, to the extent required by the Minister, be in accordance with the appropriate requirements prescribed in respect of the annual financial statements of companies in Schedule 4 of the Companies Act, 1973 (Act No. 61 of 1973).

[The Companies Act 61 of 1973 has been replaced by the Companies Act 28 of 2004.]

**Financial year of Corporation**

**67.** The financial year of the Corporation shall terminate on 30 June in each year.

**Audit**

**68.** (1) (a) The account books, statements of accounts and annual financial statements of the Corporation shall be audited annually by a person registered as an

accountant and auditor in terms of the provisions of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951).

- (b) An auditor referred to in paragraph (a) shall be appointed and his remuneration shall be determined by the Corporation with the consent of the Minister.

(2) An auditor appointed in terms of subsection (1) shall not without such qualification as may be appropriate in the circumstances, in pursuance of the audit in question, certify or report or express an opinion as contemplated in subsection (1) of section 26 of the Public Accountants' and Auditors' Act, 1951 unless in addition to having complied with the provisions of that subsection, he has satisfied himself that adequate provision has been made for the repayment of moneys lent by the Corporation.

### **Annual report**

69. The Corporation shall within six months after the end of its financial year submit to the Minister a report on its activities during that financial year in both official languages of the Republic.

[The term "both official languages" refers to the period before independence when English and Afrikaans were both official languages of "South West Africa". The only official language of Namibia is English (Namibian Constitution, Art 3(1)).]

### **Tabling of annual financial statements and annual report**

70. Annual financial statements submitted to the Minister in terms of section 66 and the annual report submitted to him in terms of section 69, shall be laid upon the Table by the Minister in the Senate and in 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 commencement of its first ensuing ordinary session.

## **CHAPTER 3**

### **GENERAL PROVISIONS**

#### **Delegation of powers by Minister**

71. (1) The Minister may in writing delegate to any senior officer in any department of State all or any of the powers conferred upon him by this Act, other than the powers referred to in section 35.

(2) The Minister may at any time revoke in writing any delegation in terms of subsection (1), and no delegation of any power shall prevent the exercise of such power by the Minister himself.

#### **Limitation of liability**

72. The State and its employees, the Minister, the members of the Commission, the Corporation, its directors and employees or any inspector shall not be liable in respect of anything done in good faith under the provisions of this Act.

#### **Serving of order, notice, direction or other document**

73. Unless another method is prescribed, any order, notice, direction or other document issued in terms of this Act shall be served -

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- (a) by delivering a copy thereof to the person upon whom it is to be served;
- (b) by leaving such copy at the usual or last known place of residence or business of such person; or
- (c) by sending such copy by post to the usual or last known place of residence or business of such person.

**Defect in form not to invalidate any notice, direction or order**

74. No defect in the form of any notice or direction given or order made in terms of this Act shall render unlawful any administrative action or be a ground for exception to any legal proceedings which may be taken in the matter to which such notice, direction or order relates, provided the requirements or meaning thereof are substantially and intelligibly set forth.

**Application of Act in South West Africa**

75. This Act and any amendment thereof shall apply also in the territory, including the Eastern Caprivi Zipfel.

**Repeal of laws and saving**

76. (1) Subject to the provisions of subsections (2) and (3) the laws referred to in the Schedule are hereby repealed.

- (2) At the commencement of this Act -
  - (a) all assets, rights, liabilities and obligations of the Abattoir Commission established by section 2 of the Abattoir Commission Act, 1967 (Act No. 86 of 1967), shall vest in the Corporation: Provided that -
    - (i) any moneys in the account referred to in section 46(1) of the Abattoir Commission Act, 1967, or so much thereof as may be determined by the Minister, shall not vest in the Corporation but shall be paid over to the State;
    - (ii) such administrative records and other documents of the said Abattoir Commission as may be determined by the Minister shall be transferred to the Department;
  - (b) any person who immediately before such commencement was an employee of such Abattoir Commission shall become an employee of the Corporation;
  - (c) any person who immediately before such commencement was the chairman or a member of that Abattoir Commission shall retire: Provided that the Minister may appoint such person as a director of the Corporation or a member of the Commission.

(3) Anything done before the commencement of this Act in terms of the provisions of the Abattoir Commission Act, 1967 -

- (i) by or on behalf of such Abattoir Commission and which could have been done by the Minister in terms of the provisions of this Act, shall be deemed to have been done by the Minister in terms of the latter provisions;

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- (ii) by or on behalf of the Minister and which could have been done by him in terms of the provisions of this Act, shall be deemed to have been done by the Minister in terms of the latter provisions;
- (iii) by or on behalf of such Abattoir Commission and which could have been done by the Corporation in terms of the provisions of this Act, shall be deemed to have been done by the Corporation in terms of the latter provisions.

(4) The Minister may if he deems it fit pay an amount *ex gratia* to any person who in terms of the provisions of subsection (2)(b) becomes an employee of the Corporation and whose services are terminated, in accordance with the terms of the contract of service in question, by the Corporation as a result of the reorganization of its staff, if the Minister is of the opinion that such reorganization is the direct result of the repeal of the provisions of the Abattoir Commission Act, 1967, and the enactment of the provisions of this Act.

(5) The registrar of deeds concerned shall as soon as may be practicable after the commencement of this Act make such entries or endorsements in or on any relevant register, title deed or other document in his office or submitted to him, as he may deem necessary in order to give effect to the provisions of subsection (2)(a), and no transfer duty, stamp duty, office fee or other charge shall be payable in respect of any vesting in terms of subsection (2)(a) or in respect of any such entry or endorsement.

**Amendment of section 9 of Act 40 of 1949, as amended by section 3 of Act 31 of 1953, section 12 of Act 80 of 1959, section 3 of Act 70 of 1963, section 3 of Act 77 of 1964, section 1 of Act 81 of 1965, section 7 of Act 103 of 1969, section 2 of Act 89 of 1972, section 3 of Act 66 of 1973 and section 5 of Act 88 of 1974**

77. Section 9(1) of the Transfer Duty Act, 1949, is hereby amended by the substitution for paragraph (bC) of the following paragraph:

“(bC) the South African Abattoir Corporation established by section 44 of the Abattoir Industry Act, 1976, in respect of property acquired by it for abattoir purposes;”.

**Short title and commencement**

78. This Act shall be called the Abattoir Industry Act, 1976, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

**Schedule**

LAWS REPEALED

Number and year of law	Title of law	Extent of repeal
Act No. 86 of 1967	Abattoir Commission Act, 1967	The whole
Act No. 30 of 1973	Abattoir Commission Amendment Act, 1973	The whole
Act No. 63 of 1975	Expropriation Act, 1975	Sections 69, 70, 71, 72 and 73