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Kaapstad,

THE PRESIDENCY

No. 1237 23 November 2001

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

No. 27 of 2001: Agricultural Research Amendment Act, 2001.

DIE PRESIDENSIE

No. 1237 23 November 2001

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

No. 27 van 2001: Wysigingswet op Landbounavorsing, 2001.



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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 12 November 2001.)

ACT

To amend the Agricultural Research Act, 1990, so as to make further provision for the procedure to be followed in the appointment of members of the Council; and to provide for matters connected therewith.

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

Amendment of section 9 of Act 86 of 1990, as substituted by section 1 of Act 16 of 1996

1. Section 9 of the Agricultural Research Act, 1990, is hereby amended by—
 - (a) the substitution for subsection (3) of the following subsection:

“(3) (a) Whenever a member of the Council has to be appointed, the Minister shall—

 - (i) by notice in **[at least two national newspapers and so many local newspapers as the Minister may determine]** the Gazette and other appropriate media, invite persons, stakeholders, the Premier of each province and the Portfolio and Select Committees of Parliament responsible for agricultural affairs to submit to **[him or her]** the Minister, within the period mentioned in the notice, the names of persons who comply with the criteria referred to in paragraph (a) of subsection (2);
 - (ii) establish a selection committee consisting of **[the number of]** at least three persons [which the Minister may determine], designate a chairperson for the committee and submit to the committee all the nominations received.

(b) **[The chairperson of the appropriate committee of the National Assembly and the chairperson of the corresponding committee of the Senate, or their delegates, shall be members of the committee referred to in paragraph (a)(ii).]**

[(c)] The selection committee **[referred to in paragraph (a)(ii)]** shall, within 30 days after the signing of the letters of appointment of its members, from the nominations submitted to it by the Minister, compile a short-list of eligible candidates who have knowledge and experience of any matter referred to in subsection (2), and submit it to the **[Parliamentary committees referred to in paragraph (b)]** Minister.

(c) The Minister shall appoint such number of members as is required from the short-list of candidates recommended by the selection committee.

(d) Within 30 days after making any appointment in terms of paragraph (c), the Minister shall inform the Portfolio and Select Committees of Parliament responsible for agricultural affairs in writing of the appointment made.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 12 November 2001.)

WET

Tot wysiging van die Wet op Landbounavorsing, 1990, ten einde verder voorsiening te maak vir die prosedure wat gevolg moet word by die aanstelling van lede van die Raad; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 9 van Wet 86 van 1990, soos vervang deur artikel 1 van Wet 16 van 1996.

1. Artikel 9 van die Wet op Landbounavorsing, 1990, word hierby gewysig deur— 5
 - (a) subartikel (3) deur die volgende subartikel te vervang:

“(3) (a) Wanneer 'n lid van die Raad aangestel moet word, moet die Minister—

 - (i) by kennisgewing in [**minstens twee nasionale koerante en soveel plaaslike koerante wat die Minister bepaal,**] die Staatskoerant en ander geskikte media, persone, belanghebbendes, die Premier van elke provinsie en die Portefeuljekomitees en Gekose Komitees van die Parlement verantwoordelik vir landbouaangeleenthede uitnooi om aan [**hom of haar**] die Minister, binne die tydperk vermeld in die kennisgewing, die name van persone wat voldoen aan die kriteria bedoel in paragraaf (a) van subartikel (2) voor te lê; 10
 - (ii) 'n [**komitee**] keuringskomitee instel bestaande uit [**die getal**] minstens drie persone [**wat die Minister bepaal**], 'n voorsitter vir die komitee aanwys en al die nominasies wat ontvang is, aan die komitee voorlê. 15
 - (b) [**Die voorsitter van die aangewese komitee van die Nasionale Vergadering en die voorsitter van die ooreenstemmende komitee van die Senaat, of hulle afgevaardigdes, moet lede wees van die komitee bedoel in paragraaf (a)(ii).**] 20
 - [(c)] Die keuringskomitee [**komitee bedoel in paragraaf (a)(ii),**] 25
 moet binne 30 dae na die ondertekening van die aanstellingsbriewe van sy lede, uit die nominasies deur die Minister aan die komitee voorgelê, 'n kortlys opstel van benoembare kandidate wat oor kundigheid en ondervinding beskik met betrekking tot 'n aangeleentheid bedoel in subartikel (2), en dit voorlê aan die [**Parlementêre komitees bedoel in paragraaf (b)**] Minister. 30
 - (c) Die Minister moet die verlangde getal lede aanstel uit die kortlys van kandidate wat deur die keuringskomitee aanbeveel is.

[(e) A member of the Council shall be appointed by the Minister after due consideration of the recommendation made to him or her in terms of paragraph (d): Provided that if the Minister does not agree with the recommendation, the Minister shall refer the matter back to the Parliamentary committees referred to in paragraph (b) for consultation.]"; and 5

(b) the addition of the following subsection:

"(5) A person may not be nominated or appointed as a member of the Council if such person—

- (a) is not a South African citizen or permanently resident in the Republic; 10
- (b) is an unrehabilitated insolvent in respect of whom the trustee of the insolvent estate has not certified that the insolvent is a fit and proper person to serve as a member of the Council;
- (c) has failed or is unable to comply in full with a judgment or order, including an order as to costs, given against such person by a court of law in civil proceedings; 15
- (d) has been convicted of an offence involving an element of dishonesty or has been sentenced for any other offence committed on or after 27 April 1994 to a period of imprisonment without the option of a fine; 20
- (e) is of unsound mind; or
- (f) has contravened a provision of section 7 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), and it has been so determined by an equality court."

Amendment of section 12 of Act 86 of 1990, as amended by section 2 of Act 16 of 1996 25

2. Section 12 of the Agricultural Research Act, 1990, is hereby amended—

(a) by the insertion of the following paragraph in subsection (2):

"(a) he or she has contravened a provision of section 7 of the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000), and it has been so determined by an equality court;" 30

(b) by the substitution for paragraph (f) of subsection (2) of the following paragraph:

"(f) he or she is nominated as a candidate for election as a member of Parliament, a Provincial House of Traditional Leaders, the [Council] National House of Traditional Leaders, [the Volkstaat Council,] a provincial legislature, or the council or other governing body of a local government body or is appointed as an official of a political party and whose functions as such are incompatible with the functions of a member; or"; and 35 40

(c) by the substitution for subsection (4) of the following subsection:

"(4) If a member dies or by written notice, directed to the Minister, resigns or in terms of subsection (2) or (3) ceases to be a member, the Minister shall [subject to the provisions of section 9,] appoint a suitable person in [his place] the vacancy for the unexpired period of [his] the relevant term of office." 45

Short title

3. This Act is called the Agricultural Research Amendment Act, 2001.

(d) Binne 30 dae na die doen van 'n aanstelling ingevolge paragraaf (c), moet die Minister die Portefeuljekomitees en Gekose Komitees van die Parlement verantwoordelik vir landbouaangeleenthede skriftelik in kennis stel van die aanstelling gedoen.

(e) 'n Lid van die Raad word deur die Minister aangestel na behoorlike oorweging van die aanbeveling wat ingevolge paragraaf (d) aan hom of haar gedoen is: Met dien verstande dat indien die Minister nie met die aanbeveling saamstem nie, die Minister die aangeleentheid terugverwys na die Parlementêre komitees bedoel in paragraaf (b) vir oorlegpleging.”; en

(b) die volgende subartikel by te voeg:

“(5) 'n Persoon kan nie as 'n lid van die Raad genomineer of aangestel word nie indien sodanige persoon—

(a) nie 'n Suid-Afrikaanse burger of permanent in die Republiek woonagtig is nie;

(b) 'n ongerehabiliteerde insolvent is ten opsigte van wie die trustee van die insolvente boedel nie gesertifiseer het nie dat die insolvente persoon 'n geskikte en bevoegde persoon is om as 'n lid van die Raad te dien;

(c) nagelaat het of nie in staat nie is om ten volle te voldoen aan 'n uitspraak of bevel, met inbegrip van 'n kostebevel, teen sodanige persoon uitgereik deur 'n geregshof in siviele verrigtinge;

(d) skuldig bevind is aan 'n misdryf waarby 'n element van oneerlikheid betrokke is of aan enige ander misdryf wat op of na 27 April 1994 gepleeg is, gevonnissen is tot 'n tydperk van gevangenisstraf sonder die keuse van 'n boete; of

(e) geestesgekreuk is.

(f) 'n bepaling van artikel 7 van die “Promotion of Equality and Prevention of Unfair Discrimination Act, 2000” (Wet No. 4 van 2000), oortree het en dit aldus beslis is deur 'n gelykheidshof.”.

Wysiging van artikel 12 van Wet 86 van 1990, soos gewysig deur artikel 2 van Wet 16 van 1996.

2. Artikel 12 van die Wet op Landbounavorsing, 1990, word hierby gewysig deur—

(a) deur die invoeging van die volgende paragraaf in subartikel (2):

“(a) hy of sy het 'n bepaling van artikel 7 van die “Promotion of Equality and Prevention of Unfair Discrimination Act, 2000” (Wet No. 4 van 2000), oortree het en dit aldus beslis is deur 'n gelykheidshof.”;

(b) deur die vervanging van paragraaf (f) van subartikel (2) deur die volgende paragraaf:

“(f) hy of sy genomineer word as 'n kandidaat vir verkiesing as 'n lid van die Parlement, 'n Provinsiale Huis van Tradisionele Leiers, die [Raad] Nasionale Huis van Tradisionele Leiers, [die Volkstaatraad], 'n provinsiale wetgewer, of die raad of ander regerende liggaam van 'n plaaslike regeringsliggaam of aangestel word as 'n amptenaar van 'n politieke party en wie se funksies as sodanig onbestaanbaar is met die funksies van 'n lid; of”; en

(c) subartikel (4) deur die volgende subartikel te vervang:

“(4) Indien 'n lid te sterwe kom of by skriftelike kennisgewing, gerig aan die Minister, bedank of ingevolge subartikel (2) of (3) ophou om 'n lid te wees, [kan] moet die Minister [behoudens die bepalings van artikel 9, iemand] 'n geskikte persoon vir die onverstrekte deel van [sy] die betrokke ampstermyn in [sy plek] die vakature aanstel.”.

Kort titel

3. Hierdie Wet heet die Wysigingswet op Landbounavorsing, 2001.

