

ANIMAL DISEASES ACT, 1984 (ACT NO 35 OF 1984) SOUTH AFRICA

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GABORONE
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PURPOSE OF ACT 35 OF 1984

- To provide for**
 - the control of animal diseases and parasites,**
 - for measures to promote animal health, and**
 - for matters connected therewith.**
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THE ACT AND REGULATIONS

- ❑ The Act lists what should to happen
 - ❑ Regulations describe how to do what should to happens under the Act.
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1. DEFINITIONS

- **'animal disease'** means a disease to which animals are liable and whereby the normal functions of any organ or the body of an animal is impaired or disturbed by any protozoon, bacterium, virus, fungus, parasite, other organism or agent;
 - **'authorized person'** means any person authorized to exercise or perform any power or duty, or requested to render any service, by the director under section 3 (1);
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Definitions cont

- **'controlled animal disease'** means any animal disease in respect of which any general or particular control measure has been prescribed, and any animal disease which is not indigenous or native to the Republic;
 - **Notifiable animal disease** have that can only be reported to the responsible state veterinarian
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DEFINITIONS cont

- ❑ **'controlled animal or thing'** means any animal, infectious thing, contaminated thing, animal product or parasite, and any progeny or product in respect thereof;
 - ❑ **'veterinarian'** means any person who is registered or deemed to be registered in terms of the Veterinary and Para-Veterinary Professions Act, 1982 (Act 19 of 1982), to practise the veterinary profession of veterinarian.
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2. Exercising of powers and carrying out of duties by director

- ❑ The director of the **Directorate of Animal Health** of the department, who shall be a **veterinarian**, shall exercise the powers and perform the duties conferred or imposed upon the director by or under this Act;
 - ❑ shall exercise his powers and perform his duties with due regard to any instructions issued by the Minister
 - ❑ Director may perform duty personally or by **an officer or person delegated** to do so
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3 Authorized persons

- who in his opinion have the required knowledge, experience, qualifications, equipment and means, as an authorized person or persons; and
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4 Written authority in respect of officers and authorized persons

- (1) The director shall furnish (...) with written authority stating that the officer or person mentioned therein is authorized to exercise, perform or render the power, duty or service specified therein, in general, or in particular cases, or in cases of a particular nature, or in respect of a specified type of controlled animal or thing, or animal disease, or particular land, or particular area.
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5 QUARANTINE STATIONS

- with the approval of the Minister, at any place in the Republic establish, or cause to be established, a quarantine station for the accommodation of imported animals or things which are in terms of this Act required or permitted to be detained or isolated
 - Any person requesting accommodation for any animal or thing at a quarantine station shall apply to the quarantine master concerned
 - The director shall appoint an officer as quarantine master to take charge, subject to the instructions of the director, of a quarantine station.
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6 IMPORTATION OF CERTAIN CONTROLLED ANIMALS OR THINGS

- (1) (a) No person shall import into or convey in transit through the Republic any animal, parasite or contaminated or infectious thing except under the authority of a permit and in compliance with any condition imposed in such permit.
 - (i) shall be obtained by an importer before the relevant animal or thing is removed from or out of any place outside the Republic
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13 Rendering of certain services by director

- (1) The director may, subject to subsections (2) and (3), whenever any owner of any controlled animal or thing, or any owner or manager in respect of land, applies voluntarily in the prescribed manner to him-
 - (a) for the rendering of advice by him to such person regarding the fitness or health of;
 - (b) to effect or perform any controlled veterinary act or any other act connected with a controlled purpose, in respect of; or
 - (c) for a prescribed certificate of fitness or health in respect of, (...)
 - (2) The director shall not be obliged to render any service referred to in subsection (1), if, in a particular case-
 - (a) the required equipment, means or officers are; or
 - (b) the required accommodation for the animal or thing at a place, centre, institution or quarantine station deemed suitable by him for the purpose, is, not available to him
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IMPORTATION OF CERTAIN CONTROLLED ANIMALS OR THINGS

- A permit referred to in paragraph (a)-
 - (i) shall be obtained by an importer before the relevant animal or thing is removed from or out of any place outside the Republic
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IMPORTATION OF CERTAIN CONTROLLED ANIMALS OR THINGS cont.

- shall, in respect of any animal or animal product referred to in section 16 (1) of the Livestock Improvement Act, 1977 (Act 25 of 1977), only be issued if the written authority contemplated in that section has been granted in respect thereof;
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detention of imported animals or things

- (1) No person shall, without the written authority of the director or contrary to any condition imposed by him in granting such authority, remove any imported animal or thing which is detained-
 - (a) in terms of subsection (2) (c) of section 6; or
 - (b) in terms of the said subsection (2) (c), as applied by subsection (3) (c) of the said section; or
 - (c) for purposes of any disposal or removal by the director or any other person under section 7 (2) or (3);
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9 Control measures

- (1) (a) The Minister may for any controlled purpose prescribe general control measures, or particular control measures in respect of particular animal diseases and parasites.
 - (b) A control measure may be prescribed in respect of the whole of the Republic, or in respect of a particular defined area.
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Control measures cont.

- (2) Control measures may relate to-
 - (a) the powers and duties of owners and managers of land, and owners of animals, in respect of infectious or contaminated things,
 - (b) the certificates or other documents which shall be issued, given, obtained, kept or produced as proof of, or in connection with, the performance of such examinations or acts;
 - (c) restrictions on and control of the slaughter, killing, hunting or catching and the movement and removal of such animals or things on, over, from or to land where a controlled animal disease or parasite occurs, or is suspected to be present;
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10 Animal health schemes

- (1) The Minister may by notice in the *Gazette* establish a scheme in respect of any controlled purpose or for the improvement of animal health.
 - (2) The Minister may in any such notice-
 - (a) state the objects of the scheme;
 - (b) define the kinds of animals and the animal disease or parasite to which the scheme shall apply;
 - (c) specify the kinds of animals which are susceptible to the animal disease or parasite concerned, which are the carriers thereof or which may cause or spread it;
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11 Duties of owners and managers regarding health of animals

- (1) Any owner or manager (...), shall, whether or not such owner or manager has obtained advice regarding the health, (...) from the director-
 - (a) take, (...), all reasonable steps to prevent the infection of the animals with any animal disease, or parasite and the spreading thereof from the relevant land or animals, or which are necessary for the eradication of animal diseases and parasites on the land or in respect of the animals; and
 - (...) and
 - (2) A veterinarian or any other person who finds the incidence or suspected incidence of any controlled animal disease in any animal or progeny or product thereof, shall immediately report such incidence to the director.
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12 Disposal of straying animals

- (1) Whenever an owner or manager of land finds on the land, or whenever an owner of animals finds among his animals, any animal which he knows has strayed thereto or has been unlawfully removed from a place outside the Republic, or which can reasonably be suspected of having so strayed or been removed, he shall-
 - (a) forthwith isolate such animal and report the finding of the animal in the prescribed manner to the director; and
 - (b) detain the animal, and any progeny or product thereof, in isolation, pending the decision of the director as to its disposal. (...)
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- (3) (a) The owner or manager to whom a service is rendered under this section, shall pay fees at the prescribed rate in respect of the service rendered, to the director.
 - (b) The director may exempt any owner or manager from the payment of fees if he is of opinion that the rendering of the relevant service-
 - (i) is in accordance with the policy aims of the department regarding the promotion of animal health;
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14 Assumption of control over land by director

- (1) The director may, whenever he deems it necessary for any controlled purpose, declare by written notice served in the prescribed manner on any owner or manager of land, that he assumes as from a specified date control over land defined in the notice, including all fences, structures, facilities or improvements on the land, or only such fences, structures, facilities or improvements specified therein, for a period specified therein or for such period as the director may deem necessary.
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15 Orders

- (1) The director may, in order to achieve a controlled purpose, serve an order in the prescribed manner on any owner of animals or things, or any owner or manager of land, wherein he is directed, in respect of-
 - (a) any specified controlled animal or thing;
 - or
 - (b) land defined therein; or
 - (c) any such animal or thing and such land,
 - to comply with a specified provision of this Act, or to perform, or abstain from performing, any other defined act.
 - (2) An order shall, subject to subsections (3) and (4), be binding on the person concerned and any other person who is his legal successor in respect of the relevant animals, land or things
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16 Powers of entry and inspection of director

- (1) (a) The director may at any time, without prior notice to any owner or manager or any other person, whenever he deems it necessary for any controlled purpose, or in the exercising or performing by him of any power or duty granted to or imposed upon him by or under this Act-
 - (i) enter upon any land; or
 - (ii) order to stop and enter upon, take control of or board any conveyance in the territorial waters, as defined in section 2 of the Territorial Waters Act, 1963 (Act 87 of 1963), of, or at any other place in, the Republic.
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17 Seizures by director

- (1) The director may, at any time in any manner deemed fit by him, and without notice to any person, seize-
 - (a) any animal, conveyance, document referred to in section 16 (2) (b) (i), or other thing-
 - (i) which is concerned, or is on reasonable grounds believed by him to be concerned, in the commission or suspected commission of any offence under this Act; or
 - (ii) which may afford evidence of the commission or suspected commission of any such offence; or (...)
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18 Fences

- (1) (a) The director may for any controlled purpose or, in order to control in connection therewith the movement, removal or transport of animals, erect permanent fences along, on or across public or private roads or along the boundaries of any land, and temporary fences on or across any land, and may install gates, grids or other passages in any such fence.
 - (b) The director shall maintain fences erected and passages installed under paragraph (a), and may from time to time effect such alterations thereto as he may deem necessary.
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19 Compensation

- (1) The owner of any animal or other thing which has been destroyed or otherwise disposed of pursuant to any control measure, or any provision of section 17 (3) or (5), or any other provision of this Act, by the director or on his authority, may submit an application for compensation for the loss of the animal or thing to the director.
 - (2) The director may, taking into consideration-
 - (a) the applicable compensation, based on a fair market value of the animal or thing, which has been prescribed for purposes of this section or, where no compensation has been so prescribed, any amount fixed by him in accordance with any criterion deemed applicable by him;
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experiments and research with, and manufacture and evaluation of, certain products

- No person shall, except under a permit and in compliance with the conditions which are prescribed or, in any particular case, determined by the director-
 - (a) conduct any investigation, experiment or research with any vaccine, serum, toxin, anti-toxin, antigen or other biological product which consists or originates wholly or partially of, or from, any micro-organism, or of or from the glands, organs, fluids, or any other part, of an animal or parasite: Provided that the foregoing provisions of this paragraph shall not apply to any substance in so far as it is controlled under the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965);
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21 General provisions regarding applications, claims and requests

- (1) Subject to the provisions of this Act regarding any particular application, claim or request, any application, claim or request which is under this Act required or permitted to be lodged with or directed to the director, shall-
 - (a) be made or submitted in the prescribed manner;
 - (b) contain the prescribed particulars and information;
 - (c) be made or submitted within the prescribed time; and
 - (d) be accompanied by the prescribed documents and the required prescribed application, or other, fees or amounts:
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22 Determination and payment of fees and other amounts

- (1) All fees or other amounts payable by any person in terms of any provision of this Act, except amounts that are fixed under any such provision by the director or any other person, shall be determined by the Minister, with the concurrence of the Minister of Finance.
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decisions of and steps taken by director and certain other persons and bodies

- (1) Any person who feels aggrieved by any decision of or steps taken by the director, or by any other person or body referred to in section 10 (7) (a), or by any employee or other person under the control or direction of any such person or body, in terms of this Act, may within the prescribed time and on payment of the amount which is prescribed, lodge in accordance with the provisions of this section an objection against the decision or steps with the Minister
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24 Keeping and production of documents

- (1) A copy of any permit, authority, order or other document which has been issued, granted, served or given to a person by the director under this Act and, in the case of an order, the prescribed documents which shall be obtained in connection with the serving thereof, as well as any application, correspondence or other document submitted to the director and arising from the administration and application of this Act, shall be stored safely by him for the periods which are fixed in respect thereof by or pursuant to any provision of the Archives Act, 1962 (Act 6 of 1962).
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25 Secrecy

- (1) No person shall, except for the purpose of the performance of his duties under this Act, or for the purpose of legal proceedings thereunder, or when required to do so by any competent court, excluding a civil court, or under any law, or with the written consent of the Minister, disclose to any other person any information acquired by him in the performance of his duties under this Act, and which relates to the business or affairs of a person.
 - (2) No person shall, except with the written consent of the Minister, give access to any person other than the director, an officer, or any other person entitled thereto in terms of any law, to any records or registers kept in terms of this Act.
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Services [i]* and livestock auctioneers

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- (1) The South African Transport Services [ii]* shall not be liable-
 - (a) by reason of its refusal to transport any animal or thing-
 - (i) whenever it knows, or it may on reasonable grounds be suspected, that such animal or thing is an infectious or contaminated thing;
 - (ii) if any permit or other document is required by this Act for the transport or removal of such animal or thing, and the consignor is not able or fails to produce that permit or document or any duplicate or copy thereof to it; or
 - (iii) by reason of a prohibition under this Act of the removal or transport of such animal or thing from the land on which it is kept or is present
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27 Limitation of liability

- Except where otherwise provided in this Act, no person, including the State, shall be liable in respect of anything done or omitted in good faith in the exercise of a power or the performance of a duty under, or by virtue of, this Act, or in the rendering of any service in terms of this Act, or in respect of anything which may result therefrom.
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28 Application of Act in respect of State

- This Act, excluding-
 - (a) the provisions of any section in so far as it-
 - (i) imposes a duty to pay any fees; or
 - (ii) grants a right to claim any compensation; and
 - (b) the penal provisions,shall bind the State.
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29 Defects in form

- A defect in the form of any document which, in terms of any law, is required to be executed in a particular manner, or in a document issued in terms of this Act, shall, if the document substantially complies with the applicable legal requirements, not render unlawful any administrative act performed in terms of this Act in respect of the matter to which such document relates, and shall not be a ground for exception to any legal procedure which may be taken in respect of such matter.
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30 Defrayal of expenses

- All expenditure connected with the exercise of any power or performance of any duty granted to or imposed upon the Minister or the director by or under this Act, or which has otherwise been incurred in the administration or application of any provision of this Act, shall, subject to the provisions of this Act, be defrayed from moneys appropriated by Parliament for the purpose or, in respect of any such expenditure for the defrayal of which moneys accrue to the department from a utilization of moneys in the Agricultural Research Account referred to in section 2 of the Agricultural Research Account Act, 1964 (Act 37 of 1964), in terms of the provisions of section 3 (2) of the said Act, from such moneys
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31 Regulations

- (1) The Minister may make regulations-
 - (a) prescribing the manner in which any controlled animal or thing which is required or permitted to be isolated under this Act by any owner in respect of animals, or by any owner or manager of land on that land, shall be isolated and cared for and treated in isolation;
 - (b) prescribing the manner in which any infectious or contaminated thing, or anything which can be suspected of being an infected or contaminated thing, shall be cared for, treated, disinfected, destroyed or disposed of by any owner thereof, or by any owner or manager of land on which any such thing is present; (...)
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32 Offences and penalties

- (1) Any person who-
 - (a) with the object of introducing or spreading any animal disease or parasite in the Republic, contravenes any provision of section 20, or of a condition of a permit referred to in that section, or fails to comply with any provision of such condition;
 - (b) (i) with the object of spreading any animal disease or parasite in the Republic, contravenes any provision of section 8 (1) or (3) or section 12 (4) (a); or (...).
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33 Presumptions and proof

- (1) Whenever in any prosecution for any offence under this Act it would be necessary in order to establish the charge, to prove that-
 - (a) the accused did or omitted to do anything with the object of bringing into the Republic or of spreading any animal disease or parasite, it shall, on proof that he-
 - (i) contrary to any provision of this Act or of any condition imposed by virtue thereof, brought any infectious or contaminated thing, or any progeny or product thereof, into the Republic, or removed it from any isolation or detention; or (...)
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34 Vicarious liability

- (1) Whenever any manager, representative, agent, employee or member of the household of any person (in this section called a principal) does or omits to do any act which it would be an offence under this Act for such principal to do or omit to do, that principal shall be deemed himself to have done or omitted to do that act, and be liable to be convicted and sentenced in respect thereof, unless it is proved that-
 - (a) in doing or omitting to do that act the manager, representative, agent, employee or member of the household was acting without the connivance or the permission of such principal; and
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