

LIVESTOCK IMPROVEMENT

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Act 9, 2009.

An act to provide for the improvement of the livestock industry through the establishment of the Animal Production Advisory Board and livestock breeders' societies, and matters incidental thereto.

[Date of Assent: 15th June 2009]

[Date of Commencement: On Notice]

PART I **Preliminary (ss 1-2)**

1. Short title and commencement

This Act may be cited as the Livestock Improvement Act, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

2. Interpretation

In this Act, unless the context otherwise requires-

"**animal scientist**" means any person who holds a degree in animal agriculture;

"**Association**" means the Stud Book Association established under section 26(1);

"**Board**" means the Animal Production Advisory Board established under section 3;

"**centre**" means a semen collection centre licensed in accordance with Regulations made under this Act;

"**collection**" in relation to semen, means the obtaining of semen from a male animal for the purposes of breeding, but does not include such obtaining for any other purpose;

"**Department**" means the Department of Animal Production;

"**Director**" means the Director of the Department of Animal Production;

"**embryo transferor**" means any person who collects, evaluates, processes, packs or stores ova or embryos, or who carries out the inovation of animals;

"**evaluation**" in relation to semen, means the examination of semen to assess its suitability for use in artificial insemination, but does not include such examination by a veterinary surgeon;

"**inovulator**" means a person who collects or harvests egg cells from the donor animal for purposes of embryo transfer;

"**inseminator**" means a person who carries out the insemination of animals;

"**livestock breeders society**" means a group of persons promoting the breeding, improvement and use of animals and to whom a certificate of registration has been issued in terms of section 21(5);

"**member**" means a member of the Animal Production Advisory Board;

"**ovum**" means an egg cell of a female animal other than poultry;

"owner" means-

(a) when used in relation to any premises, land or place-

(i) the registered owner thereof when he is in actual occupation of that premises; or

(ii) where the owner is not in actual occupation of the premises, any person who, whether as a lessee or licensee, or otherwise entitled, has, for the time being, the charge, control and management of such premises, land or place;

(b) when used in relation to any animal-

(i) any person who is the sole or part owner of the animal;

(ii) where the sole owner or part owner of the animal has not, for the time being, the control or custody of the animal, the person who has such control or custody of that animal;

"process" in relation to semen, means to-

(a) dilute, except for the purpose of, or in the course of, the collection or evaluation of the semen;

(b) add any substance, except for the purpose of, or in the course of, the collection of semen, which is calculated to prolong the natural life of the semen;

- (c) add any antibiotic for the purpose of promoting and safeguarding animal health;
- (d) package into straws;
- (e) freeze, except for the purpose of, or in the course of the evaluation of the semen; or
- (f) quarantine for a period of 28 days following freezing under paragraph (e):

Provided that processing shall not be complete until all the processes under paragraphs (a) to (f) have been carried out;

"**quarantine**" means to hold in authorised isolation;

"Register" means a register established and maintained under section 16;

"Registrar" means the Registrar appointed in terms of section 15;

"semen collector" means a person who collects, evaluates, processes or stores semen, and who carries out the artificial insemination of animals;

"transfer" means the transfer of semen or embryo to a female recipient;

"**veterinary surgeon**" has the meaning assigned to it under the Veterinary Surgeons Act (Cap. 61:04).

PART II

Animal Production Advisory Board (ss 3-10)

3. Establishment of Animal Production Advisory Board

There is hereby established an advisory body to be known as the Animal Production Advisory Board, which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued and, subject to the provisions of this Act, of performing such acts as bodies corporate may, by law, perform.

4. Membership of Board

(1) The Board consists of the following members appointed by the Minister, in writing-

- (a) an animal scientist and a veterinary surgeon, both from the Department of Animal Production;
- (b) two animal scientists, one appointed from the Department of Agricultural Research and the other from the Botswana College of Agriculture respectively;
- (c) six other persons appointed by the Minister from among persons whose names have been submitted to the Registrar by each of the following bodies—
 - (i) the Botswana Meat Commission,
 - (ii) the Botswana Agricultural Union,
 - (iii) the Botswana Veterinary Association,
 - (iv) the Stud Book Association,
 - (v) the Botswana Society of Animal Production,
 - (vi) the Dairy Association,
 - (vii) a representative from the Ministry responsible for the environment; or
 - (viii) such other body which deals with the livestock industry, as the Minister may determine.

(2) The Minister shall publish appointments to the Board by notice in the *Gazette*.

5. Functions

The Board shall advise the Minister on matters concerning-

- (a) the development and improvement of the livestock industry;
- (b) the development of farmed game;
- (c) the provision of services in accordance with the needs of the livestock industry;
- (d) the desirability of the establishment of a scheme for the evaluation and verification of the performance of animals with the object of improving the genetic production potential of those animals;
- (e) the priorities in respect of research, and the co-ordinated utilisation of research facilities, in connection with the livestock industry;
- (f) information services required for the livestock industry; and

(g) livestock genetic conservation matters.

6. Tenure of office of members

(1) A member shall hold office for such period, not exceeding three years, as may be specified in the instrument appointing him or her.

(2) In appointing members to the Board, the Minister shall specify their periods of appointment such that at any given time of the appointment of subsequent Board members, two thirds of the old membership is retained.

(3) A member shall be eligible for re-appointment.

7. Disqualification

A person shall not be appointed as a member or shall not continue to hold office, who has-

(a) in terms of a law in force in any country-

(i) been adjudged or otherwise declared bankrupt and has not been discharged, or
(ii) made an assignment, arrangement or composition with his creditors, which has not been rescinded or set aside; or

(b) within a period of 10 years immediately preceding the date of his or her appointment, been convicted of an offence involving moral turpitude.

8. Removal and resignation

(1) The Minister may remove a member from office where that member-

(a) is absent, without reasonable cause, from three consecutive meetings of the Board of which he or she has had notice;

(b) is inefficient;

(c) has been found to be physically or mentally incapable of performing his or her duties efficiently, and the member's medical doctor has issued a certificate to that effect;

(d) contravenes the provisions of this Act or otherwise misconducts himself to the detriment of the objectives of the Board; or

(e) has failed to comply with the provisions of section 10(1).

(2) A member may resign from the Board by giving 30 days notice, in writing, to the Minister.

(3) The office of a member shall become vacant-

(a) where the member appeals, a period of 30 days from the date a ruling against the member is made on an appeal made in respect of a conviction against the member under section 7(b);

(b) where the member does not appeal, 30 days from the date the member was convicted of an offence referred to under section 7 (b);

(c) where the member communicates his resignation, in writing, to the Minister, in accordance with subsection (2);

(d) a period of 30 days has elapsed from the date the member is given notice in writing by the Minister to vacate office; or

(e) a member is removed by the Minister on the grounds of misconduct in terms of subsection 8(1)(d).

9. Filling of vacancy

Where the office of a member becomes vacant by virtue of the removal or resignation of the member before the expiry of the member's term of office, the Minister may, in accordance with section 4 appoint another person to be a member in place of the member who has vacated office.

10. Disclosure of interest

(1) Where a member is present at a meeting of the Board or any committee of the Board at which any matter which is the subject of consideration and in which matter the member is directly or indirectly interested in a private capacity, the member shall forthwith upon the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question concerning that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose interest in accordance with subsection (1) and a decision by the Board is made benefiting the member, that decision shall be void to the extent that it benefits that member.

(4) A person who contravenes the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P 5 000 or for a term of imprisonment not exceeding 1 year, or to both.

PART III

Meetings and Proceedings of the Board (ss 11-14)

11. Proceedings of the Board

(1) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

(2) The Board shall elect from amongst its members, a Chairperson and a Vice Chairperson.

(3) The Board shall meet at least three times a year for the transaction of its business.

(4) Meetings of the Board shall be held at such places and times as the Board may determine and shall be convened by the Chairperson or Secretary of the Board.

(5) There shall preside at any meeting of the Board-

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice Chairperson; or

(c) in the absence of the Chairperson and the Vice Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Board on any matter shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

(7) An act or decision or proceeding of the Board shall not be invalid on account of the appointment of any member being defective, if the act was done, or the decision, or the proceedings took place, in accordance with a majority vote of the persons who were at the time entitled to act as members.

(8) At any meeting of the Board, a *quorum* shall be constituted by not less than one half of the members of the Board.

(9) The Chairperson of the Board shall cause proper minutes of the meetings of the Board to be taken and recorded.

12. Committees

(1) The Board may appoint committees either of a general or special nature consisting of such number of members, with such qualifications, as the Board may determine.

(2) Without prejudice to the generality of subsection (1), the Board may appoint committees-

(a) to inquire into such matters as the Board, the Minister or the Registrar, may determine, and report the findings of such inquiry to the Board, the Minister or the Registrar as the case may be;

(b) to deal with matters concerning the collection and distribution of semen, ova and embryos and any other techniques for genetic improvement;

(c) to deal with matters concerning the livestock industry; and

(d) in respect of matters concerning the importation and exportation of animals, semen and ova, and the registration and recording of animals.

(2) The Board may delegate any of its powers, functions or duties under this Act to a committee appointed in terms of subsection (1).

13. Remuneration

A member shall be paid out of the funds of the Board such allowances as the Minister may determine.

14. Indemnity of members

No civil or criminal proceedings may be instituted against a member in respect of anything done by the member in the discharge of his or her duties as a member.

PART IV

Registrar, keeping of Register and offences in connection with the Register (ss 15-19)

15. Registrar

(1) The Minister shall appoint an officer from the Department of Animal Production who is an animal scientist, as Registrar for the purposes of this Act.

(2) The Registrar shall exercise his or her powers and perform his or her duties subject to such instructions as may be issued by the Board.

(3) The Registrar may exercise any power or perform any duty imposed upon him or her personally or by an officer delegated by him or her.

(4) A decision made or order given by an officer delegated by the Registrar shall, until it has been so withdrawn or amended, be considered to have been made or given by the Registrar.

(5) The Registrar shall serve as Secretary to the Board and shall be responsible for—

- (a) maintaining a record of the Board's discussions and decisions; and
- (b) the day-to-day administration of the Board.

(6) The Board shall periodically inspect the records of the Secretary to ensure that they are properly kept.

16. Register

(1) Subject to the provisions of this Act, the Registrar shall establish and maintain a register of the following-

- (a) semen collectors;
- (b) embryo transferors;
- (c) inovulators;
- (d) centres;
- (e) animals registered or approved, for the collection of semen, ova or embryo; and
- (f) livestock breeders' societies.

(2) The Registrar shall record such particulars as may be prescribed, relating to the semen collectors, inseminators, embryo transferors, inovulators, centres, animals and livestock breeders' societies.

(3) The Register shall be open for inspection at the office of the Registrar during office hours and shall be accessible to any member of the public, upon payment of the prescribed fee.

(4) The Registrar shall, in consultation with the Chairperson, furnish any person, at that person's request and upon payment of the prescribed fee, with a copy of any particulars recorded in the Register or a certificate in respect thereof.

17. Register or certificate as evidence

(1) The Register shall be *prima facie* evidence of all matters directed or authorised by this Act to be noted therein.

(2) A certificate purporting to be signed by the Registrar to the effect that an entry has or has not been made in the Register, or that any other thing authorised by this Act to be done, has or has not been done, shall be *prima facie* evidence of the matters specified in the certificate.

(3) A certified copy of an entry in the Register or an extract from the Register, purporting to be certified by the Registrar, shall be admitted in evidence in any court of law without further proof or production of the original.

18. Approval and registration

(1) Any person who wishes to have an animal approved to be used for the collection of semen, ova or embryo, may apply to the Registrar in such manner as may be prescribed.

(2) An application made under subsection (1) shall be accompanied by the prescribed application fee for the kind of registration concerned or approval, as well as by such information or documents in connection therewith as may be prescribed or the Registrar may require.

(3) An animal may be approved for the collection of semen or donation of ova or embryo if-

(a) the Association on the recommendation of the livestock breeders' society concerned with animals to which the animal in question belongs-

(i) in relation to the pedigree of the animal in question; and

(ii) in relation to the prescribed performance records of the animal in question,

has certified in such form as the Registrar may prescribe, that the pedigree and prescribed performance records of such animal are of such a nature that the use of the semen of that animal for the purpose of the artificial insemination of animals would, in his or her opinion, be in the interests of the livestock industry; and

(b) a veterinary surgeon has certified in such form as the Registrar may determine, that such animal is acceptable in respect of-

(i) its general state of health;

(ii) absence of disease from the animal;

(iii) absence of any prescribed hereditary defect;

(iv) the quality of its semen; and

(v) such other attributes as may be prescribed.

(4) The Registrar shall consider an application made in terms of subsection (1), within 30 days of receiving the application.

(5) Where the Registrar refuses to grant an application made in terms of subsection (1) he or she shall advise the applicant, in writing, of his or her decision and of the grounds for the decision.

19. Offences in connection with the Register

A person who-

(a) makes or causes a false entry to be made in the Register;

(b) makes or causes an unauthorised alteration or deletion from the Register, commits an offence and is liable to a fine not exceeding P 5 000 or imprisonment for a term not exceeding two years, or to both.

PART V

Schemes for the evaluation and certification of the performance of animals (s 20)

20. Establishment of schemes

(1) The Minister may, on the recommendation of the Board, establish, by order, schemes for the evaluation and certification of the performance of animals specified in the order, with the object of improving the genetic production potential of such animals.

(2) An order made under subsection (1) shall provide for-

(a) the appointment of a person who, or a body which, shall exercise the powers and perform the functions conferred or imposed in terms of the scheme;

(b) the enrolment and conditions of enrolment for any person intending to participate in the scheme and any animal intended for evaluation in terms of the scheme;

(c) the period of validity of such enrolment referred to in paragraph (b);

(d) the kinds and breeds of animals to which the scheme shall apply;

(e) the manner in which animals being evaluated shall be treated and cared for, and the control to which they shall be subjected;

(f) the manner in which and the times at which the inspection of the animals shall be carried out;

- (g) the requirements and standards of quality with which the animals shall comply for certification in terms of the scheme;
- (h) the manner of the certification of the animals enrolled under the scheme;
- (i) the form of the certificate issued in terms of the scheme;
- (j) the manner of identification of the animals so certified;
- (k) the records to be kept and the information to be furnished by any person enrolled in terms of the scheme;
- (l) the systems for making use of livestock performance data;
- (m) the publication of the results of an evaluation, together with such comments in connection therewith as the Minister may consider necessary;
- (n) the fees payable by an applicant under the scheme;
- (o) any other matter which, in the opinion of the Minister is necessary or expedient in order to further or better achieve the objects of the scheme.

(3) If, in respect of a particular scheme, the Department has been appointed in terms of subsection (2) (a), the Minister may determine that the fees charged or such portion thereof as he or she may determine, shall be deposited into an account and that the money so deposited may be used only in connection with a scheme established under this section or to promote participation in a scheme.

PART VI

Livestock Breeders' Societies (ss 21-25)

21. Registration of livestock breeders' societies

(1) A group of persons that wishes to be registered as a livestock breeders' society shall, upon payment of the prescribed fee and in the prescribed form, apply to the Registrar for registration as a livestock breeders' society.

(2) An application made in terms of subsection (1) shall be accompanied by the constitution of the society and such other document or information as may be considered necessary by the Registrar.

(3) The Registrar shall register a group of persons that has applied in terms of subsection (1) if-

(a) the animal with which such group of persons is concerned has been declared to be an animal for the purposes of this Act;

(b) no other such registration has been issued in respect of any livestock breeders' society which is concerned with the same animal;

(c) the Association has certified that-

(i) such body of persons and the constitution of such body of persons comply with the conditions for recognition by the Association determined after consultation with the Registrar; and

(ii) after the granting of a certificate, affiliate or associate membership has been granted to the body of persons by the Association;

(d) the constitution of such group of persons-

(i) provides for the registration or recording of the animals concerned, and determines the conditions on which such registration or recording shall be made;

(ii) provides that the methods of breeding and selection for the animals concerned, shall be approved by the Association, and that the improvement and application of such methods shall be likewise approved;

(iii) provides that an officer designated by the Director may attend any meeting of its members and take part in the proceedings thereat, but without the right to vote at any such meeting; and

(iv) provides that membership of the Association shall be maintained on the conditions set out in the constitution of the Association.

(4) The Registrar shall consider the application referred to in subsection (1), as well as such information as may have been submitted to him or her in connection therewith, and the Registrar may make such inquiry in connection therewith as the Registrar may deem necessary.

(5) Where the Registrar grants the application made in terms of subsection (1), he or she shall issue a certificate of registration to the group or persons concerned and record the prescribed particulars in the Register.

(6) The Registrar shall give notice in the *Gazette* of the issuing by him or her of a certificate of registration in terms of subsection (5), and of the date of registration of the livestock breeders' society concerned.

22. Amendment of constitution of livestock breeders' societies

(1) A livestock breeders' society may provide, in its constitution, for the manner in which that constitution may be amended:

Provided that such amendment shall not be inconsistent with the provisions of this Act.

(2) A livestock breeders' society shall submit such number of copies of the amended constitution to the Association, as the Association may require, within 30 days of the amendment being effected.

23. Action against livestock breeders' societies

(1) A person who objects to a livestock breeders' society being registered on the grounds that the society has not properly attained the objects for which registration has been issued, may lodge complaint with the Board appointed by the Minister in terms of section 32.

(2) The Board shall, at least 30 days prior to hearing a complaint lodged in terms of this section, notify the livestock breeders' society, in writing, of the act which is to be the subject of the hearing and the date, time and place of the hearing.

24. Revocation of registration

(1) Where the Board established under section 23 finds that the livestock breeders' society has not properly attained the objects for which registration was issued, the Board may revoke the registration issued to that society, or suspend it for such period as the Board considers appropriate.

(2) The Registrar shall, by notice in the *Gazette*, publish a revocation made in terms of subsection (1) and shall remove the name of the concerned livestock breeders' society from the Register.

25. Annual returns of livestock breeders' societies

(1) The Association shall, within six months of the end of each financial year, submit, to the Registrar, such number of copies of its annual returns as the Registrar may require.

(2) In preparing its annual returns, the Association shall take into account the annual returns of all registered livestock breeders' societies and any other particulars that the Association, after consultation with the Registrar, may require from the livestock breeders' societies.

PART VII

Stud Book Association (ss 26-28)

26. Establishment of Stud Book Association

(1) There is hereby established an Association to be known as the Stud Book Association which shall consist of the following members appointed by the Minister, in writing-

(a) a member of the Board, nominated by the other members from amongst themselves;

(b) a member nominated from each of the livestock performance testing schemes dealing with-

(i) cattle;

(ii) small stock;

(iii) pigs;

(iv) dairy performance improvement; or

(v) national milk recording; and

- (c) a member nominated from each registered livestock breeder's society.
- (2) The Association shall be responsible for-

- (a) the co-ordination and management of the registration and genetic information system by-

- (i) capturing data relating to the pedigree of animals;
- (ii) capturing data relating to the testing of the performance of animals;
- (iii) ensuring that all information captured in terms of paragraphs (i) and (ii) is captured in accordance with international standards;
- (iv) ensuring that all livestock breeders' societies operate according to international standards of Animal Recording and Genetic Evaluation.

27. Powers of Stud Book Association

(1) No person other than the Association may-

- (a) issue a certificate of registration of an animal bred in or imported into Botswana;
- (b) issue a certificate of recording of an animal bred in or imported into Botswana;
- (c) publish or otherwise make known the pedigree of animals;
- (d) certify as contemplated in section 21(3)(c).

(2) The Association shall not issue a certificate contemplated under subsection (1)(a) or (b) unless the breeder of the animal concerned has registered a distinctive mark with the Association, to identify the animals bred by him.

(3) The Association shall register a distinctive mark upon payment of a prescribed fee and upon fulfilment of such conditions as may be determined by the Association.

(4) The Association shall issue a certificate in respect of each registration effected under subsection (3).

(5) No person shall use a distinctive mark registered in favour of another person to mark an animal bred by the first person referred to.

(6) The provisions of subsection (1) shall not be construed as prohibiting-

- (a) the breeder of an animal which is not registered or recorded with the Association from furnishing particulars of the pedigree of that animal; or

- (b) the owner of an animal in respect of which a certificate of registration or recording has been issued, from furnishing particulars of the pedigree of that animal shown on the certificate.

28. Constitution of Stud Book Association

(1) The Association may provide, in its constitution, for the manner in which such constitution may be amended:

Provided that an amendment to such constitution shall not be inconsistent with the provisions of this Act.

(2) The Association shall, within 30 days of an amendment to the constitution being effected, submit such number of copies of the amended constitution to the Registrar as the Registrar may require.

(3) Subject to subsection (4), an amendment made to the Association's constitution shall come into operation 90 days after being submitted to the Registrar.

(4) Where the Registrar is of the opinion that an amendment to the Association's constitution is inconsistent with the provisions of this Act, he or she shall notify the Association and the amendment shall be considered as void.

PART VIII **Financial Provisions (ss 29-31)**

29. Funds

(1) The funds of the Board shall consist of-

- (a) moneys appropriated by Parliament for the purposes of the Board;
- (b) grants and donations that the Board may receive;
- (c) income that the Board may receive from investments; and
- (d) registration fees.

(2) The Board may, subject to the provisions of any other written law and the approval of the Minister, raise by way of loans from any source in or outside Botswana, such money as it may require for the discharge of its functions.

(3) The Board may, subject to the approval of the Minister, invest in such manner as it considers appropriate, such of its funds as are not immediately required for the performance of its functions.

30. Financial year

The financial year of the Board shall be a period of 12 months ending on the 31st of March each year.

31. Accounts and audit

(1) The Board shall maintain proper books of accounts and statement of accounts in respect of each financial year relating to the expenditure of the Board and shall in each financial year prepare a statement of such accounts.

(2) The Board shall submit its books of accounts and statement of accounts to the Auditor General, who shall audit the accounts within three months of the end of the financial year or such extended time after the financial year, as the Minister may direct.

(3) The Auditor General shall report in respect of the accounts for each financial year, in addition to any other matter on which the Auditor General considers it pertinent to report on, whether or not-

- (a) the Auditor General has received all the information which, to the best of his or her knowledge were necessary for the performance of his or her duties as auditor;
- (b) the accounts and related records of the Board have been properly kept and represent a true and fair view of the transactions and financial affairs of the Board; and
- (c) the Board has complied with all the financial provisions of this Act with which it is the duty of the Board to comply.

(4) The Auditor General shall submit the report referred to in subsection (3) and a copy of the audited accounts to the Minister and to the Board within 14 days of completion of the report.

PART IX **General (ss 32-39)**

32. Appeals

(1) A person aggrieved by a decision of the Registrar made in terms of this Act, or by a decision of the Association made in terms of Part VII, may appeal to a Board appointed by the Minister for the purpose of hearing such appeals, within 30 days of receiving notice of such decision.

(2) The members of the Board shall be appointed by the Minister by notice in the *Gazette*, and shall consist of-

- (a) a Chairperson who shall be an attorney; and
- (b) two other people who, in the Minister's opinion, have expert knowledge of the subject of the appeal.

(3) An appeal shall be heard on a date and at a time and place appointed by the Chairperson, who shall notify the appellant and the Registrar or the Association, as the case may be, in writing, of such time, date and place.

(4) The Chairperson of the Board may, for the purpose of hearing an appeal before the Board—

- (a) summon any person who-

(i) in the Chairperson's opinion, may give material information concerning the subject of hearing;

(ii) the Chairperson believes has, in that person's possession, custody or control of any document which has a bearing on the subject of the hearing,

to appear before the board at a date, time and place specified in the summons, and to produce, as the case may be, any document in that person's possession, custody or control, relevant to the hearing;

(b) administer an oath or affirmation from any person called as a witness at the hearing;

(c) call any person present at the hearing as a witness and require that person to produce any document under that person's control.

(5) The Chairperson shall determine the procedure to be followed in hearing an appeal.

(6) Either party to an appeal before the Board, may be represented by an attorney.

(7) Where a member of the Board-

(a) prior to the commencement of the investigation or during the investigation, vacates office;

(b) is unable to attend a hearing of the Board; or

(c) is, after the hearing has commenced, unable to continue therewith; the parties to the appeal may agree that the investigation be continued by the remaining members.

(8) If the member referred to under subsection (7) was the Chairperson, the Minister shall appoint one of the remaining members to act as Chairperson.

(9) If the parties do not agree to have the hearing continued by the remaining members, the investigation shall be adjourned until-

(a) the Minister has appointed a member in accordance with the requirements of subsection (2), in the place of the member who has vacated office or is unable to continue with the hearing; or

(b) the member who was unable to attend is available to continue with the hearing.

(10) The Board may, after hearing the appeal, confirm, set aside or vary the decision of the Registrar or Association, as the case may be.

(11) The decision of the Board shall be in writing, and a copy thereof shall be furnished to the parties to the dispute and the Registrar or Association, as the case may be, by the Chairperson.

(12) Where the Board sets aside a decision of the Association or the Registrar, as the case may be, the fee paid by the appellant in respect of the appeal shall be refunded to him or her, and where the Board varies a decision, it may direct that the whole or such part of the fee as it may determine, shall be refunded to the appellant.

(13) A member of the Board and any person summoned under subsection (4)(a) shall be paid such allowances as the Minister may determine.

33. Confidentiality

(1) An officer of the Department shall not disclose information acquired by him or her in the performance of his or her duties under this Act, except-

(a) to the Director, the Registrar or any other person for the purposes of the performance of that person's functions under this Act; or

(b) by order of a court.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine of not exceeding P 5 000 or to imprisonment for a term not exceeding six months, or to both.

34. Limitation of liability

No compensation shall be payable by the State, the Minister, the Registrar or an officer acting under authorisation by, or delegation from, or under the direction of, the Registrar, by a person or body designated in terms of section 20(2)(a), or by a person authorised by such person or body, in respect of any act done in good faith under the provisions of this Act.

35. Discretionary powers of Registrar

The Registrar shall not exercise any discretionary power vested in him or her, to the prejudice of any applicant or person who is an interested party, without giving the applicant or that person an opportunity to be heard.

36. False or misleading adverts

(1) No person shall publish or distribute or cause to be published or distributed, false or misleading information concerning any animal or the semen, ova, eggs or artificial insemination or inovation of an animal.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P 10 000 or to imprisonment for a term not exceeding one year, or to both.

37. Offences and penalties

A person who-

(a) obstructs or hinders the Registrar, an officer, or a group of persons registered in terms of section 21, in the exercise of his or her powers or the performance of his or her duties under this Act;

(b) makes or causes to be made to the Registrar or an officer, a false statement in connection with an application for registration, knowing it to be false;

(c) having been duly summoned in terms of section 32(4), refuses or fails without reasonable cause to appear at the hearing;

(d) makes or causes to be made a false or misleading statement in connection with-

(i) the sale of an animal, semen or ova;

(ii) the rendering of services relating to the artificial insemination or inovation of animals; or

(iii) the collection, evaluation, processing, packing or labelling of semen or ova;

(e) fails to comply with the conditions of a scheme;

(f) uses a brand not registered in terms of this Act to identify animals bred by him or her;

(g) uses a brand registered in his or her favour, to designate the animals of another person; or

(h) in furnishing particulars in terms of section 27(6), makes a false statement relating to the pedigree of an animal, commits an offence and is liable to a fine not exceeding P 10 000 or to imprisonment for a term not exceeding one year, or to both.

38. Regulations

(1) The Minister may, in consultation with the Board, make regulations for the better carrying out of the objects and purposes of this Act, and without prejudice to the generality of this provision, may make regulations-

(a) prescribing the manner in which any person may apply to have an animal approved for the collection of semen, ova or embryo, as the case may be;

(b) prescribing fees to be paid for registration;

(c) prescribing forms of hereditary defects which must be absent in an animal in order for a veterinary surgeon or the Registrar to certify that the animal is acceptable for the collection of semen or the donation of ova;

(d) prescribing the fees payable in respect of any inspection of the Register;

(e) prescribing particulars to be recorded by the Registrar, relating to semen collectors, inseminators, embryo transferors, inovulators, centres, animals approved for the collection of semen or ova, and livestock breeders' societies;

(f) prescribing the fees payable in order to obtain a copy of any of the particulars recorded in any Register;

(g) for the collection, evaluation and processing of semen, ova or embryo;

(h) for the approval of males for use in artificial insemination;

(i) for the storage, supply and use of semen.

39. Repeal of Cap. 36:04

The Registration of Livestock Act, is hereby repealed.