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KAAPSTAD, 9 APRIL 1976

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 618.

9 April 1976.

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

No. 50 of 1976: Marketing Amendment Act, 1976.

No. 618.

9 April 1976.

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

No. 50 van 1976: Wysigingswet op Bemarking, 1976.

WET

Tot wysiging van die Bemarkingswet, 1968, ten einde 'n beheerraad te magtig om die bedrag van 'n subsidie wat vir sekere doeleindes ten opsigte van 'n produk betaal is, onder sekere omstandighede te verhaal; om in verband met verrigtinge vir die verhaal van sodanige bedrae, voorsiening te maak vir die bewys van sekere feite deur middel van beëdigde verklaarings, en vir 'n sekere weerlegbare vermoede by bewys van sekere feite; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 23 Maart 1976.)*

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Invoeging van artikel 60B in Wet 59 van 1968.

1. (1) Die volgende artikel word hierby in die Bemarkingswet, 1968 (hieronder die Hoofwet genoem), na artikel 60A ingevoeg:

„Verhaal van sekere subsidies deur beheerraad.

60B. (1) Wanneer 'n beheerraad 'n subsidie ten opsigte van die produk waarop die skema wat hy uitvoer betrekking het, aan enigiemand betaal het ten einde so iemand, of iemand anders wat daardie produk verkry, in staat te stel om 'n bepaalde handelsartikel waarin daardie produk omgesit is of by die vervaardiging waarvan daardie produk gebruik is, aan distributeurs of verbruikers daarvan teen 'n laer prys te verskaf as die prys waarteen daardie handelsartikel andersins, indien geen subsidie ten opsigte van bedoelde produk betaal is nie, aldus verskaf sou word, en so iemand of so 'n ander persoon 'n hoeveelheid van daardie produk gebruik vir 'n ander doel as om dit in bedoelde handelsartikel om te sit of by die vervaardiging daarvan te gebruik, kan die beheerraad, behoudens die bepalings van subartikel (2), die bedrag van die subsidie wat ten opsigte van daardie hoeveelheid van bedoelde produk deur hom betaal is, op so iemand of so 'n ander persoon, na gelang van die geval, verhaal.

(2) Wanneer die Staat geld aan 'n beheerraad voorgesket het vir die betaling van 'n subsidie in subartikel (1) bedoel, oefen die betrokke raad die kragtens genoemde subartikel verleende bevoegdhede uit onderworpe aan die voorskrifte van die Minister.

(3) 'n Beheerraad wat 'n in subartikel (1) bedoelde subsidie betaal, moet minstens een maal per jaar by kennisgewing in die *Staatskoerant* aan alle belanghebbende persone kennis gee van die handelsartikels ten opsigte waarvan die subsidie betaal word.”

(2) Enige verhaal voor die inwerkingtreding van subartikel (1) deur enige beheerraad van die bedrag van 'n subsidie in subartikel (1) van artikel 60B van die Hoofwet bedoel, wat geldig

MARKETING AMENDMENT ACT, 1976

Act No. 50, 1976

ACT

To amend the Marketing Act, 1968, so as to enable a control board under certain circumstances to recover the amount of a subsidy paid in respect of a product for certain purposes; to provide, in connection with proceedings for the recovery of any such amounts, for the proof of certain facts by means of affidavits, and for a certain rebuttable presumption upon the proof of certain facts; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 23 March 1976.)

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

1. (1) The following section is hereby inserted in the Marketing Act, 1968 (hereinafter referred to as the principal Act), after section 60A: Insertion of section 60B in Act 59 of 1968.

“Recovery of certain subsidies by control boards.

60B. (1) Whenever a control board has paid a subsidy in respect of the product to which the scheme administered by it relates, to any person in order to enable such person or any other person acquiring that product to supply any particular commodity into which that product has been converted or in the manufacture of which that product has been used, to distributors and consumers thereof at a price lower than the price at which that commodity would otherwise, if no subsidy had been paid in respect of the said product, have been so supplied, and such person or any such other person has used any quantity of that product for any purpose other than to convert it into the said commodity or to use it in the manufacture thereof, the control board may, subject to the provisions of subsection (2), recover the amount of the subsidy paid by it in respect of that quantity of the said product from such person or such other person, as the case may be.

(2) Whenever the State has advanced money to a control board for the payment of a subsidy referred to in subsection (1), the board in question shall exercise the powers conferred by the said subsection subject to the directions of the Minister.

(3) Any control board paying a subsidy referred to in subsection (1) shall at least once in a year, by notice in the *Gazette*, give notice to all interested persons of the commodities in respect of which the subsidy is paid.”.

(2) Any recovery before the commencement of subsection (1) by any control board of the amount of a subsidy referred to in subsection (1) of section 60B of the principal Act, which would

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sou gewees het indien laasgenoemde subartikel ten tyde van die betaling van die betrokke subsidie aan die betrokke persoon in werking was, word hierby wettig verklaar.

Wysiging van artikel 94 van Wet 59 van 1968, soos gewysig deur artikel 22 van Wet 52 van 1969 en artikel 25 van Wet 69 van 1970.

2. Artikel 94 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

„(3) By die verhoor ten opsigte van verrigtinge deur 'n beheerraad ingestel vir die verhaal van die bedrag van 'n subsidie kragtens artikel 60B, word 'n geskrif wat 'n bedigde verklaring heet te wees van iemand wat in daardie verklaring beweer dat hy 'n werknemer van daardie raad is en dat 'n in die verklaring genoemde bedrag deur die raad betaal is as 'n subsidie ten opsigte van 'n hoeveelheid van 'n produk wat deur die verweerder verkry is, as *prima facie*-bewys aanvaar van die bedrag van die subsidie wat deur die raad onder die omstandighede in daardie artikel bedoel, ten opsigte van bedoelde hoeveelheid verhaal kan word.”.

Wysiging van artikel 95 van Wet 59 van 1968.

3. Artikel 95 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

„(4) Wanneer daar by die verhoor ten opsigte van verrigtinge deur 'n beheerraad ingestel vir die verhaal van die bedrag van 'n subsidie kragtens artikel 60B, bewys word dat 'n hoeveelheid van 'n produk ten opsigte waarvan 'n subsidie deur daardie raad betaal is, deur die verweerder verkry is en dat hy daardie produk in die gewone loop van sy besigheid omsit in, of gebruik by die vervaardiging van, 'n bepaalde handelsartikel, of daardie produk andersins vir 'n bepaalde doel gebruik, word daar vermoed, totdat die teendeel bewys word, dat bedoelde hoeveelheid deur die betrokke persoon omgesit is in, of gebruik is by die vervaardiging van, bedoelde handelsartikel, of andersins vir sodanige doel deur hom gebruik is, na gelang van die geval.”.

Kort titel.

4. Hierdie Wet heet die Wysigingswet op Bemarking, 1976.

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have been valid if the last-mentioned subsection had been in operation at the time of the payment of the relevant subsidy to the person concerned, is hereby validated.

2. Section 94 of the principal Act is hereby amended by the addition of the following subsection:

“(3) At the trial in respect of any proceedings instituted by a control board for the recovery of the amount of a subsidy under section 60B, a document purporting to be an affidavit made by a person who in that affidavit alleges that he is an employee of that board and that an amount mentioned in the affidavit was paid by the board as a subsidy in respect of a quantity of a product acquired by the defendant, shall be accepted as *prima facie* proof of the amount of the subsidy which may be recovered by the board in respect of the said quantity under the circumstances contemplated in that section.”

Amendment of section 94 of Act 59 of 1968, as amended by section 22 of Act 52 of 1969 and section 25 of Act 69 of 1970.

3. Section 95 of the principal Act is hereby amended by the addition of the following subsection:

“(4) Whenever at the trial in respect of any proceedings instituted by a control board for the recovery of the amount of a subsidy under section 60B, it is proved that a quantity of a product in respect of which a subsidy has been paid by that board has been acquired by the defendant and that he, in the normal course of his business, converts that product into, or uses it in the manufacture of, any particular commodity, or otherwise uses that product for any particular purpose, it shall be presumed, until the contrary is proved, that the said quantity has been converted by the person concerned into, or used in the manufacture of, such commodity, or has been otherwise used by him for such purpose, as the case may be.”

Amendment of section 95 of Act 59 of 1968.

4. This Act shall be called the Marketing Amendment Act, Short title. 1976.