FEEDS AND PET FOOD BILL

To provide for the regulation of feed and pet food, for the regulation of feed ingredients used in the manufacturing of feed and pet food, for the licensing or registration of facilities used for the manufacturing of feed or pet food, for the appointment of a Registrar to administer the Act, for the appointment of advisory committees, and for advisers, assignees, auditors, and inspectors to assist the Registrar in the exercise of his or her powers in the regulation, compliance monitoring and enforcement of this Act, and for matters connected therewith.

PREAMBLE

RECOGNISING—

- the need to ensure the manufacturing of safe feed for animals intended for human consumption;
- the need to ensure the manufacturing of safe pet food intended for companion animals;
- the critical role that feed play in food safety, nutrition and food security;
- the need for a traceability system within the feed and pet food industries;

AND IN ORDER TO—

- protect the consumers and users of feed and pet food;
- disseminate an efficient and effective traceability system;
- ensure compliance with food safety requirements,

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

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CHAPTER ONE
DEFINITIONS

Definitions

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

“adviser” means an adviser appointed in terms of section 4(1);

“animal” means any mammal, bird, fish, reptile or amphibian which is a member of the *phylum vertebrates* or any member of the *phylum mollusca*, *phylum crustacea* and *phylum echinodermate*;

“animal by-product” means any animal by-product obtained from the processing of the carcass of an animal;

“animal product” means any product originating from a food producing animal;

“assignee” means an assignee designated in terms of section 4(2);

“buy” includes agreeing to purchase, or to purchase or to exchange for any consideration whatsoever, or accept delivery in pursuance of a sale;

“commercial feed” means any feed that is manufactured and sold for commercial purposes;

“commercial purpose” means any purpose for commercial gain, whether direct or indirect;

“companion animals” means any animal belonging to a species that is domesticated or domestic-bred and normally kept as a companion to humans;

“department” means the Department in the National Government responsible for agriculture;

“exotic animals” means any wild or other animal bred and kept for commercial purposes, but not primarily intended for human consumption, and excludes companion animals;

“farm feed” means any feed manufactured, kept and used as feed for food producing animals on that farm, and that is not sold or bought, but excludes raw material;

“feed” means any solid or liquid substance or product constituted of feed ingredients, which is intended for the feeding of food producing or exotic animals;

‘‘feed additive’’ means any substance in any form, micro-organism or preparation, other than raw materials and premixtures, which is not classified as a medicinal substance, and is intentionally added to feed or water in order to perform, in particular, one or more of the following functions -

(a) to favourably affect the characteristics of feeds;

(b) to favourably affect the characteristics of animal products;

(c) to favourably affect the colour of animals;

(d) to satisfy the nutritional needs of animals;

(e) to favourably affect the environmental consequences of animal production;

(f) to favourably affect animal production, performance or welfare, including by affecting the gastro-intestinal flora or digestibility of a feed ingredient,

and is proven to be safe under the conditions of its intended use;

‘‘feed ingredients’’ means each of the constituent materials making up a feed, and includes raw material, animal by-products, premixtures and feed additives;

“food producing animal” means any animal that is commercially bred and kept, the products or by-products of which are intended for human consumption, or may end up in the human food chain;

‘‘herbal supplements’’ means herbs or botanicals which include phytonutrients;

“importer” means any person importing raw material, feed, pet food, additive, animal by-product or pre-mixture into the Republic of South Africa;

“inspector” means an inspector appointed in terms of section;

“manufacture” means any process whereby feed or pet food is produced, including grinding, pressing, extracting, mixing or blending, and the addition of additives, animal by-products or premixtures to raw material;

‘‘manufacturing facility’’ means any premises in South Africa where feed and pet food, premixtures and animal by-products are manufactured, held, packed, marked or labelled as feed or pet food, including warehouses where products are stored or kept for distribution or sale;

‘‘Minister’’ means the Cabinet member responsible for agriculture;

“pet food” means any solid or liquid substance or product constituted of feed ingredients, which is intended for the feeding of companion animals;

‘‘premixture’’ means a mixture of one or more feed additives, with or without raw materials or water used as carriers, intended for inclusion in the manufacture of feed or pet food or as part of its formulation;

‘’prescribe” means prescribe by regulation;

“raw material” means organic or inorganic products in a solid or liquid form, including various products of vegetable or animal origin, in their natural state, fresh or preserved, and products derived from the processing thereof, which are intended for oral animal feeding;

“Registrar” means the registrar designate under section 2(1);

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

‘‘rendering plant’’ means a facility where animals and animal by-products, derived from animals intended for human consumption, or game or wild animals are processed, either in an intermediary form, or as a final sterilized and safe product, which is intended for animal consumption;

‘‘sell’’ includes agreeing to sell or to offer for sale, advertise, transmit, convey, deliver or manufacture for sale or to barter or to exchange or to dispose of to any person in any manner for any consideration whatsoever, or to transmit, convey or deliver in pursuance of a sale, barter, exchange or disposal as aforesaid;

“stock remedy” means a stock remedy as defined in the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947);

“veterinary medicine” means a veterinary medicine as defined in the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);

CHAPTER TWO
REGISTRAR, COMMITTEES, ADVISERS AND ASSIGNEES

Designation of Registrar

2.(1) The Minister shall designate an officer in the service of the department as Registrar, who shall exercise the powers and perform the duties and functions conferred upon the Registrar by or under this Act.

(2) The Registrar may, unless expressly provided for otherwise, in writing delegate transfer to any suitably qualified officer under his or her control a power, duty or function conferred upon or assigned to him or her under this Act, or in writing authorize or direct any such officer to exercise such power or perform such duty or function.

Appointment of advisory committees

3.(1) The Registrar may, when required, appoint one or more advisory committee –

(a) to advise the Registrar on feeds regulatory policy matters; or

(b) to provide advice to the Registrar on feeds operational matters including, but not limited to, licensing and registration of manufacturing facilities, registration of raw materials, animal by-products, additives and premixtures, auditing, inspection, monitoring and compliance programs, proposed regulations and compulsory regulatory standards, or guidelines.

(2) The advisory committee shall consist of members appointed on the basis of their knowledge and experience, including the fields of animal science, veterinary science, food science, law, regulation, governance, financial matters and accounting, as the situation may merit.

(3) The Registrar shall determine the mandate, scope and envisaged duration of activities of an advisory committee, and shall provide administrative and secretarial services to facilitate its operations.

(4) The advisory committee shall elect its own chairperson and determine its own meeting, operational, reporting and other procedures, including dealing with conflicts of interest of members and related matters.

(5) The members of an advisory committee shall not be entitled to any remuneration or compensation from the State for the performance of their activities.

Appointment of advisers and assignees

4.(1) The Registrar may appoint technical, scientific and other advisers to assist the Registrar with advice regarding any power to be exercised or any duty or function to be

performed by the Registrar under this Act, including but not limited to the review of applications for –

(a) imports permits applied for under this Act;

(b) licence and registration applications for facilities requiring licensing or registration under this Act; or

(c) the registration of products requiring registration under this Act; or

(2) The Minister may designate legal entities as assignees to exercise such of the powers or perform those duties or functions that are conferred upon the Registrar or an inspector by or under this Act, including but not limited to –

(a) the auditing or monitoring of compliance by licensees to the conditions subject to which licences are issued;

(b) the monitoring of or compliance by commercial feed manufacturing facilities, farm feed manufacturing facilities or the holders of feed ingredient registrations to the requirements of this Act and the regulations;

(c) to act as inspectors for purposes of this Act and the regulations;

(d) to perform general auditing, monitoring or compliance related duties and functions; or

(e) to assist the Registrar with administrative or such other duties and functions as the Registrar may determine.

(3) The services of an adviser appointed under section 4(1) that is not an officer shall be procured in accordance with the procurement legislation applicable to the department for the provision of goods and services.

(4) An assignee designated under section 4(2) -

(a) must be selected –

(i) after publicly advertising for appropriately qualified legal entities interested in becoming assignees;

(ii) based on the proven qualifications and ability of the legal entity to perform the required powers, duties and functions; and

(iii) on recommendation of an advisory committee appointed for this purposes under section 3;

(b) shall have no recourse against the State in respect of any expenses incurred in connection with the exercising of the powers or the performance of the duties or functions thus assigned;

(c) shall be funded in connection with the exercise of powers or the performance of duties or functions by a levy imposed by the Minister by notice in the *Gazette*; and

(d) must be appointed for the period, which may not be less than five years at a time, and on such conditions as the Registrar may determine and set out in a service delivery agreement concluded between the Registrar and the assignee for this purpose.

(5) The chief executive officer or other person in charge of an assignee designated under section 4(2) –

(a) shall act on behalf of that assignee in the exercise of its powers and the performance of its duties and functions; and

(b) may in writing delegate or transfer to an employee of that assignee any such power or duty which the assignee shall or may exercise or perform by or under this Act, or in writing authorize or direct any such employee to exercise such power or perform such duty.

Funding of assignees

5(1) An assignee designated under section 4(2) shall every two years and by not later than 31 January, submit a business plan and budget for the following five years to the Registrar, setting out the powers to be exercised and the duties and functions to be performed, the costs and expenses associated therewith that the assignee is expected to incur for the following five years, and the proposed collection methodology of the costs and expenses incurred in connection therewith.

(2) The assignee concerned shall –

(a) provide a summary of the business plan and budget contemplated in paragraph (a) to any person that it believes has a direct interest therein and invite such person to comment thereon in writing within 30 days; or

(b) if the Registrar so determines, publish the summary of the business plan and budget contemplated in paragraph (a) for general comment in the *Gazette* and invite written comment thereon within 30 days from the date of publication.

(3) Comments in terms of subsection (2) shall be provided directly to the Registrar, who shall on receipt thereof provide a copy to the assignee, who may provide the Registrar with its response to such comments within 14 days.

(4) The Registrar shall within a period not exceeding 30 calendar days from the due date for comments determined in subsection (2), provide the Minister with copies of all comments received under that paragraph, as well as any response by the assignee under subsection (3), and the Minister must take such comments and response into consideration in determining a levy imposed under section 4(c).

(5) A levy imposed by notice in the *Gazette* under section 4(c) shall –

(a) be applicable to the persons stated in the notice;

(b) be payable for the exercise of such powers and the performance of those duties and functions by the assignee, as may be described in the notice;

(c) be payable to an independent 3rd party administrator identified in the notice and not directly to the assignee, at the time and in the manner stated in the notice;

(d) be payable to the 3rd party administrator by the persons indicated in the notice, and may provide for the recovery of the levy by the parties obliged to pay such levy from other parties indicated in the notice;

(e) provide for the collection and administration of the levy by the 3rd party administrator, including interest on late payments, collection of arrears, transfers to the assignee, and the auditing of the levy; and

(f) provide for such ancillary matters to facilitate the implementation and administration of the levy as may be set out in the notice.

Decisions of Registrar, assignee

6.(1) Notwithstanding any other provision in this Act, a decision of the Registrar or an assignee affecting the rights of a person to be issued with an import permit, licence or registration of a manufacturing facility, the registration of a feed ingredient, the withdrawal, cancellation, termination or renewal of any such permit, licence or feed ingredient registration, or the imposition of administrative penalties --.

(a) shall be in writing;

(b) must be taken within a procedurally fair process in which affected persons have the opportunity to submit their views and present relevant facts and evidence;

(c) should be based on reasons, facts and evidence that must be summarized, recorded and provided to the affected person;

(d) must be explained clearly as to its factual and legal basis and the reasons therefore;

(e) provide for the opportunity to take such decision on review or appeal.

(2) Any person affected by a decision of the Registrar or an assignee under subsection (1), or by any other administrative action under this Act, may –

(a) institute judicial proceedings in the High Court for the judicial review of administrative actions; or

(b) appeal to the High Court against such decision: Provided that the procedure applicable to an appeal from a decision of a magistrate's court in a civil matter applies, with the changes required by the context, to such an appeal.

(3) The procedurally fair, review and appeal processes required under subsection (1) shall be as prescribed and must comply to the requirements of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

CHAPTER THREE
PROHIBITIONS AND PRODUCT REQUIREMENTS

Prohibitions

7. No person shall—

(a) import any raw material, feed, pet food, animal by-product, feed additive, or premixture without being authorised to do so under the provisions section 10 or 11, or keep, use, buy or sell any imported raw material, feed, pet food, animal by-product, feed additive, or premixtures not thus authorised;

(b) manufacture any commercial feed in a manufacturing facility that is not licensed under section 15, or keep, use, buy or sell any such commercial feed that originates from a manufacturing facility that is not thus licensed;

(c) manufacture any farm feed in a manufacturing facility that is not registered under section 16, or keep or use any farm feed originating from a farm feed manufacturing facility that is not thus registered, or buy or sell any farm feed, whether originating from a registered manufacturing facility or not;

(d) manufacture premixtures in a manufacturing facility that is not licensed under section 15, or keep, use, buy or sell any premixtures that originates from a manufacturing facility that is not thus licensed;

(e) manufacture additives in a manufacturing facility that is not licensed under section 15, or keep, use, buy or sell any additives that originates from a manufacturing facility that is not thus licensed;

(f) manufacture any animal by-product in a rendering plant that is not licensed under section 15, or keep, use, buy or sell any animal by-product originating from a rendering plant that is not thus licensed;

(g) manufacture pet food in a manufacturing facility that is not licensed under section 15, or keep, use, buy or sell any such pet food originating from a manufacturing facility that is not thus licensed; or

(h) manufacture, keep, use, buy or sell any raw material, animal by-product or feed additive that is not registered as a feed ingredient under section 17, excluding raw material and feed additives that are exempted from registration under that section.

Product requirements

8. No importer, commercial feed manufacturer, farm feed manufacturer, pet food manufacturer, rendering plant or other manufacturing facility shall -

(a) incorporate veterinary medicine or a stock remedy, or any product containing a veterinary medicine or a stock remedy, into feed or pet food, unless and in accordance with the levels and in the manner prescribed by regulation;

(b) import, manufacture, keep, use, buy or sell any raw material, feed, pet food, animal by-product, feed additive, or premixture, that does not comply to the standards, limits, content requirements or other specifications determined by regulation;

(c) store, sell, buy, distribute, keep any raw material, feed, pet food, animal by-product, feed additive or premixture that is not graded, classed, packaged or labelled in accordance with any requirements imposed under regulation;

(d) package, label or advertise any raw material, feed, pet food, animal by-product, feed additive or premixture to which this Act applies in a way that is false, misleading or likely to create an erroneous impression regarding its character, quantity, composition, safety, registration or licensing.

Exemptions

9.(1) The Minister may by notice in the *Gazette* –

(a) exempt any person or class of persons from the provisions of sections 7 or 8, or part thereof, for the period set out in such regulation, or suspend the operation of any of those sections, or part thereof, for such period as may be set out in the notice concerned;

(b) determine that the provisions of sections 7 or 8, or part thereof, are only applicable under certain circumstances or events, or in the absence of certain circumstances or events;

(c) determine that the provisions of sections 7 or 8, or part thereof, are only applicable to certain categories of manufacturing facilities, or manufacturing facilities above a certain size or throughput;

(d) determine that the provisions of sections 7 or 8, or part thereof, only apply to certain raw material, commercial feed, farm feed, pet food, animal by-product, feed additive or premixture, including such products containing veterinary medicines or stock remedies, or other substances, that provide a risk to human or animal health.

(2) An exemption notice under subsection (1) shall set out the criteria for such exemption, which may include –

(a) the risk that such exemption poses to human and animal health;

(b) the complexity of the activities performed by a person or class of persons;

(c) the nature or size of the manufacturing facility and the type of feed ingredient manufactured at such facility.

CHAPTER FOUR
IMPORTS AND EXPORTS

Import permit

10. (1) Any person importing raw material, feed, pet food, animal by-products, feed additives or premixtures must do so on the authority of a permit issued under subsection (2), unless such feed ingredient is obtained from a foreign supplier accredited in terms of section 11.

(2) An application for an import permit shall be made to the Registrar on the form available for this purpose, and shall be accompanied by the prescribed particulars and application fee: Provided that an import permit is not required for any feed ingredient that –

(a) is registered in terms of section 17; or

(b) does not require registration in terms of section 17: Provided the Registrar is satisfied that the feed ingredient concerned --

(i) complies to the standards, limits, content requirements or other specifications determined by regulation;

(ii) is graded, classed, packaged or labelled in accordance with the regulations; and

(iii) is packaged, labelled or advertised in a way that is not false, misleading or likely to create an erroneous impression regarding its character, quantity, composition or safety.

(3) The Registrar must consider an application for an import permit within 14 days of receipt thereof, unless the Registrar in writing requests additional information to properly consider such application, in which event the Registrar must consider an application for an import permit within 14 days from the receipt of the additional information.

(4) An import permit is only valid for the feed ingredients and the period stated therein, which may not be longer than 12 months, and may not be extended, amended or otherwise modified.

(5) The Registrar may make the import of any raw material, feed, pet food, animal by-product, feed additive, or premixture subject to such conditions as he may determine and set out in the import permit.

Foreign supplier accreditation

11.(1) A person intending to import any raw material, feed, pet food, animal by-product, feed additive, or premixture may at his or her sole risk and expense, perform such risk-

based foreign supplier verification activities as may be determined by the Registrar, for the purpose of verifying that foreign facilities comply with and feed ingredients are produced in accordance with the requirements of the Act and the regulations.

(2) The Registrar may, upon receipt of the results of the verification activities in terms of subsection (1), and upon payment of the prescribed fees, accredit the foreign supplier and any raw material, feed, pet food, animal by-product, feed additive, or premixture manufactured or supplied by such foreign supplier, on such conditions and for such period of validity as he or she may determine.

(3) The Registrar shall keep an updated list of accredited foreign suppliers and any raw material, feed, pet food, animal by-product, feed additive, or premixture manufactured or supplied by that foreign supplier, and such list shall, subject to the requirements set out in section 19 be made publicly available.

Exemption of small quantities

12. The Registrar may on application and upon payment of the prescribed fees exempt any raw material, feed, pet food, animal by-product, feed additive, or premixture imported in small quantities for research, sampling or such other purposes as he or she may determine, from the import permit requirements set out in section 10.

Exports

13.(1) The Registrar shall, at the request of a person desiring to export any raw material, feed, pet food, animal by-product, feed additive, or premixture, within 14 days from the receipt of such request –

(a) provide such reasonable assistance to the exporter as may be necessary to obtain assurances, official documents, reports or approvals regarding the raw material, feed, pet food, animal by-product, feed additive, or premixture as the exporter may need to satisfy the import requirements of the country concerned; or

(b) provide assurances, official documents, reports or approvals that are in the possession of or under the control of the Registrar to the importing country as may be required to facilitate the export of such raw material, feed, pet food, animal by-product, feed additive, or premixture.

(2) The Registrar may charge prescribed fees calculated on a cost-recovery basis for the provision of assistance to an exporter under subsection (1).

CHAPTER FIVE
LICENSING AND REGISTRATION

Licensing

14.(1) Any person –

(a) operating a manufacturing facility for the manufacturing of commercial feed;

(b) operating a manufacturing facility for the manufacturing of premixtures;

(c) operating a manufacturing facility for the manufacturing of feed additives;

(d) operating a rendering plant for the manufacturing of animal by-products; or

(e) operating a manufacturing facility for the manufacturing of pet food,

must hold a valid licence for such facility, issued by the Registrar.

(2) Combined licences may be issued if more than one activity per facility is undertaken.

(3) A licence for a facility set out in subsection (1) –

(a) shall be valid for the period set out in such licence, which period shall not exceed ten years;

(b) shall have a unique identifying number;

(c) shall be subject to such conditions as the Registrar may determine and set out in the licence for that facility, including conditions relating to –

(i) the operation of the facility;

(ii) the maintenance of the facility;

(iii) the products that are produced in the facility and the requirements that such products need to comply to, including requirements relating to the composition, contents, production, handling, storage, labelling, traceability, distribution and sale thereof, or any other requirements specified in any other law or the regulations, and incorporated in the licence by referral;

(iv) compliance to the Act, the regulations, or any other requirements specified in any other law and incorporated in the licence by referral, regarding raw materials, animal by-products, feed additives, premixtures, veterinary medicine and stock remedies used in the manufacturing of commercial feed and farm feed;

(v) the performance of hazard analysis and the creation and implementation of a written control plan to address risks posed to human and animal health and the environment;

(vi) the provision of assurances that products are not adulterated or misbranded;

(vii) the monitoring of the performance of controls implemented, the keeping of records, and the mandatory provision of reports and returns to the Registrar, and the contents thereof;

(viii) the withdrawal of products originating from such facility that do not comply to the licence, the Act or the regulations, or any other requirements specified in any other law and incorporated in the licence by referral, at the licensee's own cost and expense;

(ix) the provisioning of information that the Registrar may reasonably demand, require or expect to further the implementation of the Act or the regulations;

(x) the monitoring, auditing and inspections of facilities, and the powers, functions and duties of auditors and inspectors to perform audits and do inspections;

(xi) termination of the licence and the renewal thereof, including additional or substituting conditions that have to be met for renewal, or continuation of operations pending renewal;

(xii) amendment of the licence upon application by the licensee;

(xiii) the transferability of the licence, including a prohibition on the transfer of the licence unless the substituting licensee qualifies to be issued with a licence under this Act, and undertakes to comply to the conditions of the licence and the provisions of the Act and the regulations;

(xiv) administrative fines imposed by inspectors for the contravention of or non-compliance to a licence condition by a licensee, or any person acting for or on behalf of such licensee, the maximum amounts of such fines, and the procedure for paying such fines or appealing against it, as may be prescribed;

(xv) the revoking of the licence;

(xvi) the payment of annual licence maintenance fees, for different types of licences, as may be prescribed;

(xvii) such further conditions, or refinement of the above conditions, as may be prescribed.

(4)(a) The Registrar may, on such conditions as he or she may determine, upon written application allow a commercial feed manufacturing facility, pet food manufacturing facility, pre-mixture manufacturing facility, feed additive manufacturing facility or rendering plant to

(i) operate without a licence; or

(ii) operate subject to identified conditions of its licence being temporarily suspended.

(b) The Registrar may only allow a commercial feed manufacturing facility, pet food manufacturing facility, pre-mixture manufacturing facility, feed additive manufacturing facility or rendering plant to operate without a licence, or to operate subject to identified conditions of its licence being temporarily suspended –

(i) for such period, as may be determined by the Registrar, that does not exceed 5 years; and

(ii) if the operation without a licence or on suspended conditions do not pose a risk to human or animal health and the environment.

Application for licence or exemption

15.(1) An application for a licence or an application for an exemption under section 14 shall be made on the form available from the Registrar for this purpose, and be accompanied by the particulars specified therein, together with the application fees as prescribed.

(2) An application for a licence or an exemption must be considered, decided upon and issued within 120 days of receipt thereof, unless the Registrar in writing requests additional information to properly consider such application, in which event the Registrar must consider, decide upon and issue a licence or an exemption within 120 days from the receipt of the additional information.

(3) If an application for a licence or an exemption is declined, the Registrar must provide the applicant with written reasons for his or her decision within 14 days.

(4) The Registrar shall keep an updated list of all licences issued and exemptions provided, including the registered names and licence numbers of the facilities involved, and such lists shall, subject to the provisions of section 19, be publicly made available.

Registration of farm feed manufacturing facilities

16.(1) Any person operating a manufacturing facility for the manufacturing of farm feed must to hold a valid registration certificate for such facility issued by the Registrar.

(2) An application for registration of a manufacturing facility under subsection (1) shall be made on the form available from the Registrar for this purpose, and be accompanied by the particulars and application fee as may be prescribed.

(3) The Registrar shall, upon receipt of properly completed application documents under subsection (2), forthwith register a manufacturing facility for farm feed and issue a registration certificate to the applicant.

(4) A registration certificate issued by the Registrar shall be valid for 10 years and is not transferable.

(5) The registration of a manufacturing facility for farm feed shall be subject to the holder thereof complying to the Act, the regulations and applicable law.

(6) The Registrar shall keep an updated list of all registered farm feed manufacturing facilities, including the registered names and registration numbers of the facilities involved, and such list shall, subject to the provisions of section 19, be publicly made available.

Registration of products

17.(1) All raw material, animal by-products or feed additives must be registered by the Registrar under this Act: Provided that the Registrar may, on such conditions as he or she may determine, list specified raw materials or feed additives that are exempted from registration.

(2) An application for a new registration or an amendment to an existing registration shall be made on the form available from the Registrar for this purpose, and be accompanied by the particulars specified therein, together with the application fees as may be prescribed.

(3) If the Registrar, after consideration of an application referred to in subsection (1) or (2), is of the opinion that such feed ingredient complies with this Act, the regulations and applicable law, the Registrar shall issue a certificate of registration of the feed ingredient by -

(a) assigning a registration number in the case of a new registration, and where the Registrar considers it appropriate, in the case of an amendment; and

(b) specifying the period of validity, and the conditions which must be complied with.

(4) An application for the registration of a feed ingredient must be considered and awarded within the prescribed period, and if declined, the Registrar must provide the applicant with written reasons for his or her decision within 14 days of the decision.

(5) The Registrar shall keep updated lists of –

(a) any feed ingredients that are exempted from the registration requirement; and

(b) all registered feed ingredients,

and such lists shall, subject to the requirements set out in section 19, be made publicly available.

Amendment, suspension or cancellation

18 The Registrar may at any time amend or cancel a licence, or revoke a registration certificate or the registration of a feed ingredient, if –

(a) the licensee concerned has failed to comply with or contravened any material term or condition of his or her licence;

(b) additional information comes to light about the human and animal health or environmental risks of any imported or locally produced raw material, animal by-product, feed additive, premixture, feed or pet food that, had he or she been aware thereof at the time of issue of the licence or product registration, would have led to the licence or feed ingredient registration not being awarded;

(c) there has been a change of circumstances such that the holder of a licence, registration certificate or feed ingredient registration no longer qualifies, or is not entitled, to be the holder of a licence, registration certificate or feed ingredient registration under the Act;

(d) the licensee concerned habitually contravenes or fails to comply to his or her licence conditions;

(e) the licensee concerned fails or refuses to pay administrative fines imposed under section 31; or

(f) the licensee, holder of a registration certificate or feed ingredient registration has been found guilty of contravening the Act or the regulations, and has been sentenced to a period of imprisonment, without the option of paying a fine.

CHAPTER SIX
ACCESS TO INFORMATION

Public access to information

19. The Registrar shall allow any person to have access to, and on payment of such fees as may be prescribed, make copies of any lists contemplated in sections 11, 15, 16 or 17: Provided that such information —

(a) does not contain commercially sensitive information; or

(b) has been made available pursuant to a request for information in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

Prohibition against disclosure

20.(1) The Registrar, another officer, an adviser, an assignee or an official employed by an assignee may not disclose information obtained under this Act or the regulations unless –

(a) the person who provided the information has given his or her prior written permission thereto; or

(b) the information is accessible under section 19.

(2) Notwithstanding the provisions of subsection (1), any person mentioned therein may disclose information obtained under this Act –

(a) to any other officer, adviser, assignee or official who, out of necessity, requires it for the exercise of his or her powers or the performance of his or her duties or functions in terms of this Act: Provided that the person to whom the information has been provided may only use it for such purposes and may not disclose such information to any other person, unless the provisions of this paragraph or subsection (1) applies;

(b) if such information is required as evidence in any court of law or any criminal prosecution.

Prohibition against use

21. The Registrar, another officer, an adviser, an assignee or an official employed by an assignee may not use information obtained under this Act other than the purpose for which it was obtained.

CHAPTER SEVEN
MONITORING, AUDITING, RECORDS AND RETURNS

Hazard analysis and control plan

22.(1) A commercial feed manufacturer, farm feed manufacturer, premixture manufacturer, pet food manufacturer or rendering plant shall, as may be required in terms of its licence, registration document, or as may be prescribed -

(a) perform hazards analysis;

(b) create and implement a written control plan to address hazards and prevent and address the risks posed by its activities with regard to human and animal health and the environment;

(c) provide assurances that any feed ingredient to which its registration applies is not adulterated or misbranded;

(d) monitor the performance and compliance of the facility to its licence, registration documents and control plan; and

(e) maintain records of monitoring as a matter of routine practice.

Labelling, traceability and record keeping

23**.** Any importer, commercial feed manufacturer, farm feed manufacturer, premixture manufacturer, pet food manufacturer, rendering plant, or the holder of a feed ingredient registration, shall ensure that any feed ingredient imported, manufactured, kept, used, bought or sold by it comply with the labelling, traceability and record keeping requirements as may be prescribed.

Records and returns

24.(1) An importer, commercial feed manufacturer, farm feed manufacturer, premixture manufacturer, pet food manufacturer, rendering plant, or the holder of a feed ingredient registration, shall keep such records and provide such returns to the Registrar regarding any feed ingredients imported, manufactured, kept, used, bought or sold by such person as may be set out in the import permit, licence, or feed ingredient registration, or as may be prescribed.

(2) Notwithstanding subsection (1), the Registrar may, by notice in writing, require an importer, commercial feed manufacturer, farm feed manufacturer, pet food manufacturer, rendering plant, or the holder of a feed ingredient registration –

(a) to compile information, conduct tests and monitor experience with regard to any raw material, feed, pet food, animal by-product, additive or premixture for the

purpose of obtaining additional information with respect to its effects on human or animal health or the environment or with respect to its nutritional value; and

(b) to report the additional information to the Registrar within the time and in the manner specified in the notice.

CHAPTER EIGHT
INSPECTIONS

Designation of Inspectors

25. The Minister may designate, as an inspector for purposes of the Act and the regulations, or specific sections thereof –

(a) suitably qualified officers in the employ of the department; or

(b) officials in the employ of an assignee designated in terms of section 4(2).

Proof of designation

26.(1) The Registrar shall under his or her signature issue an identity card, in the form and format and containing the particulars as may be prescribed, to each person designated as an inspector.

(2) When exercising any power or performing any function or duty in terms of this Act, an inspector must at all times wear the identity card referred to in subsection (1) in a conspicuous manner in such a manner that it clearly shows his name and designation.

Functions of inspectors

27.(1) An inspector within his or her mandate in terms of this Act --

(a) must audit, monitor, and enforce compliance to the Act, and to licenses, registrations, the regulations or other notices and documents made thereunder;

(b) may investigate any act or omission in respect of which there is a reasonable suspicion that it might constitute-

(i) an offence in terms of the Act or the regulations;

(ii) a breach of the law or the regulations;

(iii) a breach of a term or condition of a license or exemption, breach of a registration certificate or feed ingredient registration, or other instrument issued in terms of this Act.

(2) An inspector -

(a) must carry out his or her duties and exercise his or her powers subject to any limitations and in accordance with any procedures that may be prescribed or are applicable under law;

(b) must exercise his or her powers in a manner –

(i) that is the least invasive but ensures proper investigation and prosecution of the matter under investigation and the safeguarding of human and animal health; and

(ii) that minimises any damage to, loss or deterioration of any premises or thing accessed, confiscated or stored.

(3) The owner or the person in charge of a place entered by an inspector or any other person in a position of authority in such place shall give the inspector all reasonable assistance in their power to enable the inspector to exercise his or her powers, or perform his or her duties or functions under the provisions of this Act or the regulations.

General Powers of Inspectors

28.(1) An inspector may at any reasonable time enter any premises of a licensee or registration holder, or any vehicle, container, aircraft or other convenience or venue suspected to be used by, on behalf of or to the benefit of any licensee or registration holder, and –

(a) question any person about any act or omission in respect of which there is a reasonable suspicion that it might constitute-

(i) an offence in terms of this Act; or

(ii) a breach of a term or condition of a license, registration certificate or other document issued in terms of this Act;

(b) issue a written notice to a person who refuses to answer questions in terms of paragraph (a), requiring that person to answer questions put to him or her in terms of that paragraph;

(c) inspect, or question a person about, any document, book or record or any written or electronic information-

(i) which may be relevant for the purpose of paragraph (a); or

(ii) to which this Act, the regulations or a notice issued under this Act relates;

(d) copy, or make extracts from, any document, book or record or any written or electronic information referred to in paragraph (c), or remove such document, book, record or written or electronic information in order to make copies or extracts;

(e) require a person to produce or deliver to a place specified by the inspector, any document, book or record or any written or electronic information referred to in paragraph (c) for inspection;

(f) inspect, question a person about, and if necessary seize and remove any specimen, article, substance or other item which, on reasonable suspicion, may have been used in-

(i) committing an offence in terms of this Act; or

(ii) committing a breach of a term or condition of a license, registration certificate or other instrument issued in terms of this Act;

(g) take photographs or make audio-visual recordings of anything or any person that is relevant for the purposes of an inspection;

(i) take samples; or

(j) carry out any other prescribed duty not inconsistent with this Act.

(2)(a) A written notice issued in terms of subsection (1)(b) must be in the prescribed format and must require a person to answer specified questions either orally or in writing, and either alone or in the presence of a witness, and may require that questions are answered under oath or affirmation.

(b) A person who receives a written notice in terms of subsection (1)(b) may, but is not obliged, to answer any question put to him or her if his or her answer may incriminate himself or herself.

(3) An inspector must-

(a) provide a receipt for-

(i) any document, book, record or written or electronic information removed in terms of subsection (1)(d); or

(ii) any specimen, article, substance or other item seized or removed in terms of subsection (1)(f); and

(b) return anything seized or removed as soon as the inspector becomes aware that criminal proceedings will not be instituted.

(4) Notwithstanding the provisions of subsection (1) to (5), an inspector may, where an inspection takes place at any premise other than a premise for which a licence or registration certificate has been issued under this Act, only enter the premise, perform an inspection or seize any specimen, article, substance or other item on the strength of a warrant issued in terms of subsection (7), unless –

(a) the person in control of the premises consents to the entry and inspection; or

(b) there are reasonable grounds to believe that a warrant would on application be issued, but that the delay that may be caused by applying for a warrant would defeat the object of the entry or inspection.

(5) A magistrate may issue a warrant contemplated in subsection (6) only --

(a) on written application by an inspector setting out under oath or affirmation that it is necessary to enter and inspect the specified place for the purposes of ascertaining compliance with the Act or the regulations; and

(b) if he or she concurs with the necessity thereof.

CHAPTER NINE
OFFENCES AND PENALTIES

Unauthorised actions

29. (1) A person commits an offence who -

(a) imports any raw material, feed, pet food, animal by-product, feed additive, or premixture without being authorised to do so under section 10, or keeps, uses, buys or sells any imported raw material, feed, pet food, animal by-product, feed additive, or premixture not thus authorised;

(b) manufactures any commercial feed in a manufacturing facility that is not licensed under section 15, or keeps, uses, buys or sells any such commercial feed that originates from a manufacturing facility that is not thus licensed;

(c) manufactures any farm feed in a manufacturing facility that is not registered under section 16, or keeps or uses any farm feed originating from a manufacturing facility that is not thus registered, or buys or sells any farm feed, whether originating from a licensed registered manufacturing facility or not;

(d) manufactures premixtures in a manufacturing facility that is not licensed under section 15, or keeps, uses, buys or sells any listed raw material that originates from a manufacturing facility that is not thus licensed;

(e) manufactures pet food in a manufacturing facility that is not licensed under section 15, or keeps, uses, buys or sells any such pet food originating from a manufacturing facility that is not thus licensed;

(f) manufactures any animal by-product in a rendering plant that is not licensed under section 15, or keeps, uses, buys or sells any animal by-product originating from a rendering plant that is not thus licensed; or

(g) manufactures, keeps, uses, buys or sells any raw material, animal by-product, feed additive or premixture that is not registered as a feed ingredient under section 17, unless such raw material, animal by-product, feed additive or premixture is exempted from the registration requirement set out in that section.

(h) fails to comply with a directive or order issued by the Registrar or an inspector under this Act; or

(i) hinders or obstructs an official in the execution of his or her duties under this Act.

(2) A person contemplated in subsection (1) is liable on conviction to a fine or to imprisonment for a term not exceeding five years, or to both such fine and such imprisonment.

Non-compliant products

30. (1) A person commits an offence who –

(a) incorporates veterinary medicine or a stock remedy, or any product containing a veterinary medicine or a stock remedy, into feed or pet food, unless and in accordance with the levels and in the manner prescribed by regulation;

(b) imports, manufactures, keeps, uses, buys or sells any feed, pet food, animal by-product, feed additive, or premixture, that does not comply to the standards, limits, content requirements or other specifications determined by regulation;

(c) stores, sells, buys, distributes or any raw material, feed, pet food, animal by-product, feed additive or premixture that is not graded, classed, packaged or labelled in accordance with the regulations;

(d) packages, labels or advertises any raw material, feed, pet food, animal by-product, feed additive or premixture in a way that is false, misleading or likely to create an erroneous impression regarding its character, quantity, composition, safety, registration or licensing.

(2) A person contemplated in subsection (1) is liable on conviction to a fine or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

(3) The presiding officer of a court shall, upon a person being convicted in terms of subsection (2), make a finding on how any book, document, specimen, article, substance or other item seized or removed in terms of section 28 must be dealt with, including the forfeiting thereof to the State without compensation.

Licensing and registration of manufacturing facilities

31.(1) Any person who contravenes or does not comply to a condition to which his or her licence has been made subject to for –

(a) the operation of a manufacturing facility for the manufacturing of commercial feed;

(b) the operation of a manufacturing facility for the manufacturing of pet food; or

(c) the operation of a rendering plant for the manufacturing of animal by-products,

shall be liable to the imposition of an administrative fine imposed under subsection (2).

(2) The Registrar, an inspector or an assignee authorised under this Act may impose an administrative fine, not exceeding the amount prescribed for different types of contraventions or events of non-compliance, upon a licensee who in his or her opinion is contravening or not complying to a licence condition that his or her licence is subject to.

CHAPTER TEN
GENERAL

Regulations

32. (1) The Minister may from time to time, on recommendation of the Registrar, make regulations for all or any of the following purposes—

(a) prescribing application forms, requirements, information to be furnished, application procedures, and related requirements for applications for licensing or registration of manufacturing facilities or registration of products;

(b) prescribing licence conditions;

(c) prescribing standards for products including standards relating to their form, specifications, composition and other related matters;

(d) prescribing the inspection, auditing, monitoring and compliance and operation of manufacturing facilities;

(e) prescribing standards of laboratory practice to be used in conducting tests to obtain information about products and certification of compliance with those standards;

(f) prescribing foreign supplier verification activities;

(g) prescribing fees and levies payable under this Act, including application fees for imports, accreditation, exemptions, registration or licensing, auditing and inspection;

(h) prescribing requirements relating to packaging, labelling and advertising of products;

(i) prescribing sampling and analyses procedures for the purposes of this Act;

(j) prescribing any particulars that must be contained in the registers to be held by the Registrar and public access to such registers;

(k) prescribing the recording by the holder of a licence, registration certificate or registered feed ingredient of information on the sales of products, or such other information as may be specified, the retention and reporting to the Registrar, an assignee or any inspector or auditor of such information, and the use of such information by the Registrar, inspector, auditor or assignee;

(l) prescribing quality management systems, quality and safety control programmes, traceability systems, hazard analysis and preventative control plans that must be implemented by licensed or registered manufacturing facilities;

(m) prescribing the preservation and detention of products and other things seized by an inspector;

(n) prescribing administrative penalties, including the collecting, payment, management and auditing thereof, and the appeal procedure for persons affected by administrative penalties;

(o) without being limited by the foregoing, prescribing anything else that is necessary for giving full effect to this Act and for its due administration.

(2) A regulation under subsection (1) may require persons who conduct any activity regulated under this Act and who becomes aware that a feed or pet food presents a risk to human or animal health or the environment, or does not meet the requirements of the Act, a licence or the regulations, to provide written notice to that effect to the Registrar.

(3) Regulations made under this Act may authorise the Registrar to issue or impose any approval, requirement, prohibition, specification, restriction, condition, direction, instruction, or order.

(4) The Minister shall publish any proposed regulation by notice in the *Gazette*, inviting interested persons to submit any representations or objections regarding the proposed regulations within the period set out in such notice, which may not be less than 30 days.

State liability

33. The State, the Minister, the Registrar, an officer, an assignee or official, auditor or inspector shall not be liable in respect of anything done in good faith in terms of this Act.

Compliance with International agreements

34. Nothing in this Act shall be construed in a manner inconsistent with any international agreement to which the Republic of South Africa is a party and which has been ratified in accordance with the laws of South Africa.

Transitional provisions

35.(1) Any product –

(a) registered under the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No.36 of 1947), and in force at the commencement of this Act, shall continue to remain in force as a registered feed ingredient of the kind that is was originally registered as, unless registration for such product is no longer required under this Act; or

(b) submitted for registration under the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No.36 of 1947), but not yet registered

at the commencement of this Act, shall be deemed to be an application for registration of a feed ingredient under this Act, to the extent that this Act requires registration thereof.

(2) Notwithstanding any other provision of this Act—

(a) any person that is required to hold a licence for a manufacturing facility that is in operation on the commencement date, is obliged to apply for a licence within two years from the commencement date, but may continue operating the manufacturing facility until such time as the licence is issued or declined, as the case may be; and

(b) any person that is required to hold a registration certificate for a manufacturing facility that is in operation on the commencement date, is obliged to apply for a registration certificate within two years from the commencement date, but may continue operating the manufacturing facility until such time as the registration certificate is issued.

Amendment of Act

36. The Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), is hereby amended to the extent set out in the Schedule.

Short title

37. This Act shall be called the Feeds and Pet Foods Act, 2018, and shall come into operation determined by the President by proclamation.