

GN. R. 47
GG11097
15 January 1988

CONSERVATION OF AGRICULTURAL RESOURCES ACT, 1983 (ACT 43 OF 1983) FLOOD RELIEF SCHEME FOR FLOOD DISASTER AREAS

I, Jacob Johannes Greyling Wentzel, Minister of Agriculture, Administration: House of Assembly, acting under section 8, read with section 9, of the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983), hereby establish the Flood Relief Scheme set out in the Schedule.

J.J.G. WENTZEL
Minister of Agriculture and Water Supply, Administration: House of Assembly

SCHEDULE

Definitions

1. Unless the context indicates otherwise, any word or expression in this Scheme to which a meaning has been assigned in the Act shall have that meaning, and

flood damage means damage to the natural agricultural resources or soil conservation works which was caused by a flood;

flood disaster area means an area referred to in section 4 of this Scheme; and

the Act means the Conservation of Agricultural Resources Act, 1993 (Act 43 of 1983), and the regulations made thereunder.

Name of Scheme

2. This Scheme shall be known as the Flood Relief Scheme for Flood Disaster Areas.

Objects of Scheme

- 3.(1) The objects of this Scheme shall be to promote the reparation of flood damage in the flood disaster areas and to regulate the payment of subsidies out of moneys appropriated by Parliament for the purpose of this Scheme.
- (2) The provisions of subsection (1) shall not imply that the re-creation, at all costs, of the changed landscape after a flood is an object of this Scheme.

Areas to which Scheme applies

4. Subject to the provisions of section 5 this Scheme shall apply to all land in the areas specified in column 1 of the Table, excluding land specified in section 2 (1) of the Act, on which flood damage occurred during the periods or on the dates specified in column 2 of the Table opposite thereto, and in respect of which the land users are members of the White population group.

Period during which Scheme will apply

5. This scheme shall apply in a particular flood disaster area for a period of 30 months from the date of inception specified in column 3 of the Table opposite that area.

Acts in respect of which assistance may be rendered

6. Assistance may be rendered in terms of this Scheme in respect of repairs deemed necessary as a result of flood damage.

Basis for the determination of subsidies

- 7.(1) A tariff list approved the Minister with the concurrence of the Minister of Budgetary shall serve as basis for the calculation of the amounts that may be paid as subsidies under this Scheme.
 - (2) Such tariff list shall be deemed to form part of this Scheme.
 - (3) Copies of the tariff list referred to in subsection (1) shall be available for perusal at-
 - (a) the office of the executive officer;
 - (b) the office of the regional director concerned;
 - (c) each agricultural extension office in the area concerned; and
 - (d) such other office as the executive officer may determine.
 - (4) Different tariff lists may be approved in respect of different flood disaster areas.

Requirements for assistance

8. The requirements which have to be complied with order to qualify for assistance in terms of this Scheme shall be as follows:
 - (a) The farm unit on which flood damage has occurred shall-
 - (i) be situated in flood disaster area; and
 - (ii) be entered for participation in terms of section 10 of this Scheme,
 - (b) The reparation of such flood damage shall in the opinion of the executive officer be necessary for the protection or rehabilitation of the natural agricultural resources.
 - (c) A consent for the reparation of such flood damage shall be issued in terms of section 11 of this Scheme.
 - (d) A notice of the completion of such repairs shall be furnished in terms of section 12 of this Scheme.
 - (e) A statement or report on such repairs shall be made or compiled in terms of section 14 of this Scheme.

- (f) The place on the farm unit concerned at which such repairs was done shall correspond with the approximate position thereof as indicated on the map provided in terms of section 9 of this Scheme.
- (g) The dimensions and specifications of such repairs shall be in accordance with those indicated in the applicable plans and specifications referred to in section 11 of this Scheme.
- (h) The statement or report referred to in paragraph (c) shall be accepted by-the executive officer in terms of section 15 of this Scheme.
- (i) Moneys appropriated by Parliament for the purposes of this Scheme shall be available.
- (j) All the other provisions of this Scheme with regard to such repairs and the farm unit on which it has been undertaken shall be complied with.

Lodging of applications

- 9.(1) An application for the entry of a farm unit with a view to participation of this Scheme shall be made on a form that is obtainable for this purpose from an agricultural extension office in the flood disaster area concerned.
- (2) Such application form shall-
 - (a) subject to the provisions of subsection (3), be completed by the land user of the farm unit concerned;
 - (b) after being thus completed, be lodged at the agricultural extension office for the area within which the farm unit concerned is situated;
 - (c) be thus lodged within six months of the applicable date of inception; and
 - (d) be accompanied by-
 - (i) a list in which the flood damage on the farm unit concerned and the extent thereof is specified;
 - (ii) a sketch map of the farm unit concerned, or the map forming part of the farm plan for that farm unit, on which the positions of the flood damage is indicated in red; and
 - (iii) such other applicable documents as may be required in terms of subsection (3).
- (3) If the land user of a farm unit in respect of which an application form referred to in subsection (1) has been completed-
 - (a) is a minor, the application form shall be signed by the parent or legal guardian of such minor;
 - (b) is a woman married in community of property prior to 1 November 1984, the application form shall be countersigned by her spouse as evidence that she is assisted by him;
 - (c) is an estate, the application form shall be signed by the executor or curator of such estate: Provided-that such application form shall be accompanied by a certified copy of the letter of appointment of the executor or curator concerned;

- (d) is a juristic person, the application form shall be signed by a person duly authorised thereto: Provided that-
- (i) the capacity of the person concerned shall be specified on such application form; and
 - (ii) such application form shall be accompanied by a certified excerpt from the minutes containing the resolution whereby that authority was granted;
- (e) has authorised another person to apply on his behalf, the application form shall be signed by the authorised person concerned: Provided that such application form shall be accompanied by the proxy concerned;
- (f) if a partnership, or if more than one person is the land user of such farm unit, the application form shall be signed by all the partners or co-land users concerned unless one of such persons has a proxy referred to in paragraph (e); or
- (g) is a trust, the application form shall be signed by the trustee of such trust: Provided that such application form shall be accompanied by certified copies of the documents whereby the trust concerned was created and the trustee concerned appointed.

Entry of farm units

- 10.(1) If the executive officer approves an application for the entry of a farm unit with a view to participation in this Scheme, he shall notify the applicant concerned thereof in writing.
- (2) Each notice referred to in subsection (1) shall be accompanied by a list of works necessary to repair flood damage in respect of which subsidies may be paid in terms of this Scheme on the farm unit concerned.
- (3) The entry of a farm unit with a view to participation in this Scheme shall lapse if the land user concerned notifies the executive officer in writing that he withdraws the farm unit concerned from participation in this Scheme.

Consent to repair flood damage

- 11.(1) Subject to the provisions of subsection (2), the reparation of flood damage in respect of which subsidies are payable in terms of this Scheme shall not commence before the executive officer has consented thereto in writing,
- (2) The reparation of flood damage to fences and stock watering systems that is essential for the continuation of farming activities on a farm unit may commence immediately after an application referred to in section 9 of this Scheme had been lodged in respect of the farm unit concerned.
- (3) An application for a consent referred to in subsection (1) shall be made on a form obtainable for this purpose from any agricultural extension office in the flood disaster area concerned: Provided that the executive officer may also on his own accord issue such consent.
- (4) Such consent shall-
- (a) specify the repairs which may be done;

- (b) specify the expiry date thereof: Provided that such expiry date shall not be later than 30 months after the applicable date of inception;
- (c) in the case of flood damage that will be repaired with material that has to be purchased, specify the material in respect of which invoices have to be obtained and preserved for perusal by the executive officer; and
- (d) be accompanied by the plans and specifications in accordance with which the repairs concerned shall be done.
- (5) Notwithstanding the provisions of subsection (4) (d), a land user may submit his own plans and specifications for the repair of flood damage, and if the executive officer accepts such plans and specifications, the flood damage concerned shall be repaired in accordance therewith.

Notice of completion of repairs

- 12.(1) The executive officer shall be notified of the completion of repairs in respect of which a consent referred to in section 11 of this Scheme was issued.
- (2) Such notice shall-
 - (a) subject to the provisions of section 9 (3) of this Scheme, be furnished by the land user of the farm unit on which such flood damage was repaired;
 - (b) be conveyed to an officer of the agricultural extension office for the area within which the farm unit concerned is situated; and
 - (c) be thus conveyed on or before the expiry date specified in the consent concerned.
- (3) If a notice referred to in subsection (1) is not furnished on or before the expiry date referred to in subsection (2) (c), the executive officer may-
 - (a) refuse to pay any subsidy in respect of the repairs concerned; or
 - (b) postpone the payment of such subsidy in respect of the repairs concerned for such period as he may determine:

Provided that no subsidy shall be payable if such notice is furnished later than 30 months after the applicable date of inception.

Extension of validity of consents

- 13.(1) If flood damage will probably not be repaired in time to ensure that a notice referred to in section 12 (1) of this Scheme can be furnished on or before the applicable expiry date, the executive officer may on application postpone that expiry date.
- (2) An application referred to in subsection (1) shall be in the form and accompanied by the documents and information determined by the executive officer.

- (3) Postponement of the expiry date specified in a consent referred to in section 11 of this Scheme shall be granted by renewing the consent concerned: Provided that the expiry date specified in such renewal shall not be later than 30 months after the applicable date of inception.

Statements and reports on repairs

14.(1) The executive officer shall -

- (a) request the person who has furnished a notice referred to in section 12 of this Scheme, to make a written statement on the repairs concerned; or
 - (b) inspect the repairs concerned and compile a report thereon.
- (2) A statement referred to in subsection (1) (a) shall be made on a form obtainable for this purpose from an agricultural extension office in the flood disaster area concerned, and shall-
- (a) subject to the provisions of section 9 (3) of the Scheme, be made by the land user of the farm unit concerned;
 - (b) be thus made in the presence of an officer of the department employed at the agricultural extension office for the area within which the farm unit concerned is situated;
 - (c) state the exact dimensions and specifications of the repairs concerned; and
 - (d) contain a confirmation that-
 - (i) the flood damage concerned has been fully repaired in accordance with the applicable plans and specifications referred to in section 11 of this Scheme and, if applicable, that such repairs are functional;
 - (ii) the stated dimensions and specifications of the repairs concerned are correct;
 - (iii) the repairs concerned was done with new material except where otherwise indicated; and
 - (iv) the deponent is aware that any subsidies paid to him on the basis of the statement shall immediately be repayable by him if it later appears that any particulars therein are incorrect.
- (3) A report referred to in subsection (1) (b) shall-
- (a) be compiled on a form determined by the executive officer for this purpose;
 - (b) state the exact dimensions and specifications of the repairs concerned; and
 - (c) contain such other particulars as are required on the form concerned.
- (4) The executive officer may at any time inspect repairs in respect of which a statement referred to in subsection (2) has been made, either before or after a subsidy has been paid in respect thereof, and he shall then compile a report referred to in subsection (3) thereon.
- (5) Each statement referred to in subsection (2) and each report referred to in subsection (3) shall be checked by the executive officer and compared with the applicable documents referred to in sections 9, 10, 11 and 12 of this Scheme in order to determine whether a subsidy is payable in respect of the repairs concerned.

- (6) If it appears from an inspection referred to in subsection (1) (b) or (4) or from the checking of a statement or report in terms of subsection (5) that repairs has a shortcoming because it has not been done in accordance with the applicable plans and specifications referred to in section 11 of this Scheme, or that such repairs does not qualify for the payment of a subsidy for any other reason-
- (a) the executive officer shall notify the person who furnished the notice of completion of that repairs in terms of section 12 of this Scheme, in writing of such shortcoming or reason;
 - (b) no subsidy shall be payable in respect of such repairs before such shortcoming has been rectified or such reason eliminated; and
 - (c) a fresh notice may be furnished in terms of section 12 of this Scheme after such shortcoming had been rectified or such reason eliminated.

Payment of subsidies

- 15.(1) If the executive officer accepts a statement or report that has been checked in terms of section 14 (5) of this Scheme, he shall calculate the amount payable as a subsidy in respect of the repairs concerned.
- (2) An amount referred to in subsection (1) shall be calculated according to the applicable tariffs that are recorded in the tariff list referred to in section 7 of this Scheme, and that was in force on the date on which a notice of completion of repairs was furnished in terms of section 12 or 14 (6) (c) of this Scheme.
 - (3) The subsidy thus calculated shall, subject to the provisions of subsections (4) and (5) and section 12 (3) of this Scheme and with due regard to the availability of moneys appropriated for the purposes of this Scheme, as soon as is practicable he paid to the land user of the farm unit on which the repairs concerned was done.
 - (4) The land user of a farm unit may request the executive officer in writing to pay any subsidies due to him to a person specified in such a request.
 - (5) If the executive officer has been notified that assistance, by way of a loan in terms of section 10 of the Agricultural Credit Act, 1966 (Act 28 of 1966), has been rendered to a land user for the reparation of flood damage, the subsidy payable in respect of such repairs shall be used as payment or part payment of the amount (including any interest thereon) due to the State on account of such assistance.

Erroneous payments

- 16.(1) If the executive officer, as a result of an inspection in terms of section 14 (4) of this Scheme or section 18 of the Act, in connection with the reparation of flood damage in respect of which a subsidy was paid in terms of this Scheme is convinced that-
- (a) no subsidy should have been paid in respect of the repairs concerned; or
 - (b) the dimensions and specification of the repairs concerned as specified in a statement referred to in section 14 (2) of this Scheme are incorrect and that the amount paid as such subsidy exceeded the amount that was lawfully payable as subsidy in respect of such repairs,

the executive officer shall order the land user of the farm unit concerned in writing to repay to the executive officer the amount concerned or the amount paid in excess, as the case may be, together with interest thereon calculated on the basis set out in subsection (2).

- (2) Interest payable in terms of subsection (1) shall be calculated-
 - (a) at a rate equal to the rate determined in terms of section 26 (1) of the Exchequer and Audit Act, 1975 (Act 66 of 1975), and that was applicable on the date on which the executive officer directed the repayment of the amount concerned in writing; and
 - (b) from the date on which subsidy concerned was paid until the last day of the month preceding the month of repayment of such amount due.
- (3) If at any time it appears that an error other than an error referred in subsection (1) was made in the calculation of a subsidy paid in terms of this Scheme, the executive officer shall order the land user of the farm unit concerned in writing to repay the amount erroneously paid.
- (4) An amount repayable in terms of subsection (31) shall be paid to the executive officer within 60 days of the date on which he directed the repayment thereof in writing.
- (5) If the owner of a farm unit fails to pay the amount repayable by him in terms of subsection (3) within the period referred to in subsection (4), interest shall be payable on the amount due at a rate equal to the rate determined in terms of section 26 (1) of the Exchequer and Audit Act, 1975, and that was applicable on the date on which the executive officer directed the repayment concerned in writing.

**TABLE
AREAS TO WHICH SCHEME APPLIES**

Description of area	Period/date of flood	Date of inception
1	2	3
1. The Province of Natal	September 1987	1 October 1987
2. OFS: Magisterial districts of Bethlehem, Bethulie, Bloemfontein, Boshof, Bothaville, Brandfort, Bultfontein, Clocolan, Dewetsdorp, Edenburg, Excelsior, Fauresmith, Ficksburg, Fouriesburg, Frankfort, Harrismith, Heilbron, Hennenman, Hoopstad, Jacobsdal, Jagersfontein, Koffiefontein, Koppies, Kroonstad, Ladybrand, Lindley, Marquard, Odendaalsrus, Parys, Petrusburg, Phillippolis, Reddersburg, Reitz, Rouxville, Sasolburg, Senekal, Smithfield, Springfontein, Theunissen, Trompsburg, Ventersburg, Viljoenskroon, Virginia, Vrede, Vredefort, Welkom, Wepener, Wesselsbron, Winburg, Zastron	February, March 1988	1 October 1989
3. Province of Cape of the Good Hope: Magisterial districts of Aberdeen, Barkly-West, Beaufort-West, Britstown, Carnarvon, De Aar, Fraserburg, Gordonia, Graaf-Reinet, Hartswater, Hay, Herbert, Hopetown, Kenhardt, Kimberley, Kuruman, Murraysburg, Namakwaland, Philipstown, Postmasburg, Prieska, Richmond, Victoria-West, Vryburg, Warrenton, Williston, Willowmore, Aliwal-North, Colesberg	February, March 1988	1 October 1989
4. Transvaal: Magisterial district of Christiana, Bloemhof, Soutpansberg, Messina	February, March 1988	1 October 1989
5. Magisterial districts of Barkly-East and Elliott	28, 29 September 1987	1 October 1989
6. Magisterial districts of Boshoff, Venterstad, Steynsburg, Middelburg CP, Noupoot, Hanover	February, March 1988	1 October 1989
7. Magisterial district of Calvinia	2, 3 April 1988	1 October 1989
8. Magisterial district of Calvinia	21 April 1989	1 November 1989
9. Magisterial districts of Delmas and Witbank	6 December 1989	1 July 1990
10. Magisterial districts of Piet Retief, Ngotshe, Umbombo, Hlabisa, Lower Umfolozi, Richmond (N), Camperdown	November, December 1989	1 October 1990
11. Magisterial district of Hlabisa	May 1991	1 October 1991
12. Magisterial district of Calvinia	13 October 1991	1 October 1992
13. Magisterial district of Hofmeyr	17 March 1993	13 December 1993

[Table amended by R. 1320 of 1988-07-08, R. 1319 of 1988-07-08, R. 2525 of 1988-12-15, R. 2510 of 1989-11-17, R. 1737 of 1990-07-27, R.2171 of 1990-09-14, R. 2581 of 1990-11-09, R.2817 of 1991-11-29, R.2771 of 1992-10-02, R. 2493 of 1993-12-24.]