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DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. R. 3448

26 May 2023

**AGRICULTURAL PRODUCT STANDARDS ACT, 1990
(ACT No. 119 OF 1990)**

**REGULATIONS REGARDING CONTROL OF THE EXPORT OF FRESH CUT FLOWERS AND FRESH
ORNAMENTAL FOLIAGE**

The Minister of Agriculture, Land Reform and Rural Development has, under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) made the regulations in the Schedule.


A.T. Didiza

Minister of Agriculture, Land Reform and Rural Development

SCHEDULE

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have that meaning, and –

"assignee" means a person, undertaking, body, institution, association or board designated as such under section 2 (3) (a) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990);

"certificate" means a certificate that may be issued either in paper format (including electronically prepared) or in a verified electronic format which describe and attest to conformity of a consignment of regulated agricultural products to stipulated requirements as set out in regulation 6;

"chinkerinchees" means the sexual reproductive parts of the genus *Ornithogalum*;

"consignment" means a quantity of fresh cut flowers and fresh ornamental foliage of the same cultivar, belonging to the same owner and delivered at the same time under cover of the same delivery note, consignment note or receipt note, or is delivered by the same vehicle, or in the case of a quantity of fresh cut flowers and fresh ornamental foliage that is divided into different cultivars, classes, diameter groups, pallet loads, trademarks or types of packaging, every quantity of each of the different cultivars, classes, diameter groups, pallet loads, trademarks or types of packaging;

"consignment note" means a description of consignment approved by the Executive Officer or Assignee;

"Executive Officer" means the officer designated under section 2 (1) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990)

"flowers" means the inflorescence or buds which normally houses the sexual reproductive parts of plants, foliage and stems which is not dried and of which the moisture content is more than 15 per cent, and -

- (i) fresh foliage and stems of plants or mixtures of different plants; and
- (ii) fresh parts of plants,

which are destined to be used for decorative purposes;

"fresh cut flowers and fresh ornamental foliage" means flowers of the kinds chinkerinchees, flowers, ornamental foliage, ornithogalum bulbs and protea;

"inspector" means the Executive Officer or an officer under his control, or an Assignee or an employee of an Assignee;

"ISO" means International Organization for Standardization;

"National Reference Laboratory" means an official laboratory of the Department of Agriculture, Land Reform and Rural Development and the Perishable Products Export Control Board that has been nominated in writing by the Executive Officer for the testing of compliance as envisaged in terms of regulations 6(1) and 7(1);

"officially recognized laboratory" means any laboratory that is not a National Reference Laboratory and that is nominated by the Executive Officer in writing as being suitable or required for the testing of compliance as envisaged in terms of regulations 6(1) and 7(1);

"ornamental foliage" means the fresh leaves and fresh stems of any plant (*inter alia* ferns) which are used for ornamental purposes.

"ornithogalum bulbs" means the subterranean reproduction parts obtained from the genus *Ornithogalum*;

"protea" means the sexual reproductive and vegetative parts of the family Proteaceae; and

"the Act" means the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990).

Prohibition on the export of fresh cut flowers and fresh ornamental foliage

2. (1) Subject to the provisions of subregulation (2), no person shall export fresh cut flowers and fresh ornamental foliage from the Republic unless each quantity thereof has been approved by the Executive Officer for that purpose.

(2) Fresh cut flowers and fresh ornamental foliage which are -

- (a) exported in a consignment of less than 10 kg net mass; and
 - (b) taken in as provisions aboard a conveyance to another country,
- shall be exempted from the prohibition set out in subregulation (1).

(3) An approval in terms of subregulation (1) may also be given by an Assignee.

Application for approval for export

3. (1) An application for an approval in terms of section 4 of the Act for the export of a consignment of fresh cut flowers and fresh ornamental foliage, shall be directed in writing to the Executive Officer or Assignee.

(2) Such an application shall be made at least four working days before the intended date of export or as otherwise arranged with the Executive Officer or Assignee.

(3) The following particulars shall be supplied when such an application is made:

- (a) The name and address of the applicant and, where applicable, of his agent or exporter.
- (b) The cultivar and class thereof.
- (c) The number and type of containers in the consignment.
- (d) The intended date and time of export and the port or airport from which the consignment concerned shall be exported.
- (e) The particulars concerning the marking and destination of the consignment concerned.
- (f) The address of the premises where the consignment concerned can be inspected and the date and time when the consignment will be ready for inspection.
- (g) Any other additional information regarding the consignment concerned.

Presentation for inspection

4. (1) Each consignment of fresh cut flowers and fresh ornamental foliage intended for export which has to be presented for inspection in terms of these regulations shall, prior to the export thereof, be approved for export by an inspector: Provided that the consignment of fresh cut flowers and fresh ornamental foliage concerned shall be presented for inspection at least 12 hours prior to the intended time of export or as otherwise arranged with the Executive Officer or Assignee.

(2) A consignment of fresh cut flowers and fresh ornamental foliage referred to in subregulation (1), shall be submitted for inspection in such a manner that -

- (a) access to each container therein can be obtained readily; and
- (b) the marks, printing or stamping on such containers can readily be read.

Consignment note

5. (1) Every consignment of fresh cut flowers and fresh ornamental foliage destined for export shall, when submitted for inspection, be accompanied by a consignment note completed clearly, legibly, fully and correctly

(2) All the copies of such a consignment note shall have the same serial number and one copy thereof shall be retained by the Department or Assignee.

Procedure at inspection

6. (1) An inspector may in any consignment of fresh cut flowers and fresh ornamental foliage open as many containers and inspect the contents thereof and remove samples of such contents for the purpose of further inspection or analyses as he/she may deem necessary.

(2) An inspector's finding in relation to the containers opened by him/her by virtue of the provisions of subregulation (1), and the contents thereof, shall apply as a finding in respect of the whole consignment from which such containers were abstracted.

(3) If an inspector is satisfied after his/her inspection that the consignment of fresh cut flowers and fresh ornamental foliage:

- (a) comply with the requirements of these regulations he/she shall approve such consignment for export, either by marking or causing to be marked on each container or label affixed thereto with a mark of approval or by issuing a certificate which indicates such approval; or
- (b) do not comply with the requirements of these regulations he/she shall prohibit such consignment for export, either by marking or causing to be marked on each container or label affixed thereto with a mark or prohibition or by issuing a certificate which indicates such prohibition.

(4) An inspector may at his/her own discretion re-inspect a consignment of fresh cut flowers and fresh ornamental foliage which has already been approved for export, and may confirm or withdraw according to subregulation (3)(b) any previous approval with regard to the consignment concerned: Provided that no inspection fee shall be payable in respect of a re-inspection carried out on demand of an inspector.

Assessment of the competence of testing laboratories involved in the export of fresh cut flowers and fresh ornamental foliage

7. (1) For the purpose of analysis as required by regulation 6 (1), analyses may be conducted by a National Reference Laboratory or an Officially Recognized Laboratory.

(2) The Executive Officer shall nominate a National Reference Laboratory or an Officially Recognized Laboratory in writing to conduct analyses as set out in subregulation (1).

(3) The said laboratory shall be considered on the basis of their suitability, which shall *inter alia* be based on the following criteria:

- (a) A reasonable demonstrable knowledge or expertise in the testing and analysis of fresh cut flowers and fresh ornamental foliage;

- (b) Compliance with the general criteria for testing laboratories as laid down in ISO/IEC Guide 17025:2017;
 - (c) Annual participation in appropriate proficiency testing schemes for analysis which conform to the requirements as laid down in "The international harmonized protocol for the proficiency testing of analytical laboratories";
 - (d) Whenever available, use methods of analysis which have been validated according to the principles as laid down by the *Codex Alimentarius Commission*; and
 - (e) Use internal quality control procedures, as described in the document titled "Harmonized Guidelines for internal Quality Control in Analytical Chemistry Laboratories".
- (4) In addition to compliance with suitability criteria as set out in subregulation (3), an Officially Recognized Laboratory shall only be considered for nomination on the following grounds:
- (a) Of necessity in as far as fulfillment of capacity as determined from time to time by the Executive Officer.
 - (b) On a three-year period, the period which may be considered for renewal upon assessment by the Executive Officer.

Fees for inspection and analysis

8. The following fees shall be payable for inspection and analysis:

- (1) The determined inspection fee when fresh cut flowers and fresh ornamental foliage are presented for inspection.
- (2) The fee for testing and analysis of samples shall be charged by the laboratory concerned and this shall include incidental costs such as courier or transport fee.

Appeal

9. Any person may lodge an appeal against a decision or direction of the Executive Officer or an Assignee in terms of section 10(1) of the Act or as prescribed in the Appeal Procedures Regulations published under the Act, to the Director-General.

Offences and penalties

10. Any person who contravenes or fails to comply with the provisions of these regulations shall be guilty of an offence and shall be liable to a fine or imprisonment as set out in section 11 of the Act.

Commencement

11. These regulations shall come into operation on the date of publication.

Repeal

12. Regulations published by Government Notice No. R. 886 of 14 November 2014 are hereby repealed from the date of commencement of these regulations.