

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. R. 3479

2 June 2023

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

REGULATIONS REGARDING CONTROL OF THE EXPORT OF GRAINS

The Minister of Agriculture, Land Reform and Rural Development has, under section 15 of the Agricultural Product Standards Act, 1990 (Act 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 -

"address" means a physical address in the Republic of South Africa and includes the street or road number or name, and the name of the town, village or suburb and in case of a farm or silo, the name or number of the farm or silo and of the magisterial district in which it is situated;

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

"bread wheat" means the caryopsis or grain of the plant *Triticum aestivum*;

"buckwheat" means the seed of the plant *fagopyrum esculentum*;

"bulk container" means a grain truck, any vehicle or container used for the transportation or storage of the grains;

"castor beans" means the threshed seed of the plant *Ricinus communis*;

"certificate" means a certificate that may be issued either in paper format (including electronically prepared) or in 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;

"cereals" means maize, wheat, grain sorghum, barley, millet and buckwheat;

"consignment" means a quantity of grains of the same grade belonging to the same grade or class belonging to the same owner, and which is delivered at any one time under cover of the consignment note, delivery note or receipt note, is delivered by the same vehicle or bulk container or railway truck, or which is loaded from the same bin of a grain elevator into different grades or classes, each quantity of each of the different grades or classes;

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

"container" means a bag or bulk container in which grains are stored or transported;

"cotton seed" means the ginned seed of the plant *Gossypium hirsutum*;

"department" means the Department of Agriculture, Land Reform and Rural Development;

"dry beans" means the threshed ripe seeds of the plants *Phaseolus coccineus* L. (kidney beans), *P vulgaris* L. and *P actutifolius* a Gray (tepyary beans), which are intended for human consumption;

"durum wheat" means caryopsis of the species *Triticum durum*, *Triticum turqidum* and *Triticum polonicum*;

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

"food business operator" (FBO) means the person or persons responsible for ensuring that the prescribed requirements of these regulations are met within the food business under his or her control and include both the management of the food business as well as the person with overall authority on site or in the specific establishment;

"**fortification**" means the addition of one or more micronutrients by means of a fortification mix as prescribed in terms of Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

"**grains**" means cereals, *leguminous seeds*, oilseeds, grass seeds and the processed grains thereof;

"**grain sorghum**" means the seed of any sorghum except a broom sorghum, hay, sorghum or cane sorghum;

"**grass seed**" means the threshed seed of the following types of grasses:

- (a) Babala, also called pearl millet (*Pennisetum typhoides*);
- (b) Boer and German millet (*Setaria italica*);
- (c) Japanese Millets;
- (d) Japanese barnyard millet (*Panicum miliaceum*); and
- (e) Canary seed (*Phalaris canariensis*);

"**groundnuts**" means the fruit of the plant *Arachis hypogaea*;

"**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;

"**lesser known types of maize**" means waxy maize, popcorn, sweet corn and bread maize" the threshed seed of the plant *zea mays amyloea*: Provided that white and yellow plant maize (*Zea mays indentata*) and white and yellow plant maize (*Zea mays indurata*) are, for the purpose of these regulations, not included;

"**leguminous seeds**" means, the threshed seeds of soya beans (*Glycine max*); dry beans, velvet beans (*Mucuna deeringiana*), sword or jack beans (*Canava ensiformis*, *C gladiata*), cowpeas (*Vigna unguiculata*), pulses; peas (*Pisum sativum*), lupins, lentils (*Lens culinaris*) and chickpeas or mung beans (*Cicer arietinum*, *Phaseolus mungo*, *Vinga mungo* of *Vigna radiata*);

"**linseed**" means the threshed seeds of the plant *Linum usitatissimum*;

"**maize**" means threshed seeds of white maize, yellow maize, bread maize, lesser-known types of maize;

"**maize products**" means a commodity derived from the processing of maize or into which maize or any part of maize has been converted;

"**millet**" means the threshed seeds of the plant *pennisetum glaucum*;

"**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 Laboratories**" 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);

"**oilseeds**" means sunflower seed, soya beans, canola, castor beans, groundnuts linseed, cotton seed, and safflower seed;

"**ISO**" means International Organization for Standardization;

"**popcorn**" means the threshed seed of *Zea mays everta*;

"**processed**" means maize products, wheat products and other unspecified processed grains;

"**Processing**" means shelling, drying, blanching, milling, crushing, coarse milling or rolling, cutting and fortification;

"**pulses**" means an edible seed that grows in a pod which include all beans, peas, lentils, and lupins which are intended for human consumption;

"**safflower seed**" means the capsula of the plant *Carthamus tinctorius*;

"**sunflower seed**" means the capsula of the plant *Helianthus annuus*;

"**sweetcorn**" means the threshed seed of *Zea mays saccharata*;

"**the Act**" means the Agricultural Product Standards Act, 1990 (Act 119 of 1990);

"**unspecified grains**" means any other kind of grains which is not mentioned under this regulation;

"**waxy maize**" means the threshed type of maize which contains a high percentage of molecular branched amylopectin starch fraction in the endosperm and which normally originates from the plant *Zea mays ceratina*;

"**wheat**" means bread wheat, soft wheat and durum wheat;

"**wheat products**" means a commodity derived from the processing of wheat or into which wheat or any part of wheat has been converted;

"**white maize**" means maize that consists of the white dent type botanically known as *Zea mays indentata* or of the white flint type botanically known as *Zea mays indurata*, or of a mixture of the two types or of one or more crossings of the two types; and

"**yellow maize**" means maize that consists of the yellow flint type botanically known as *Zea mays indurata*, or of the yellow dent type botanically known as *Zea mays indentata* or of a mixture of the two types or of one or more crossings of the two types.

Prohibition on the export of grains

2. (1) Subject to the provisions of subregulation (2) no person shall export grains from the Republic unless each quantity thereof has been approved by the Executive Officer for that purpose.

(2) Grains which are –

(a) exported in a consignment of less than 20kg; and

(b) taken in as provisions for consumption abroad a conveyance to another country and 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 designated with regard to grains.

Application for approval for export

3. (1) An application for an approval in terms of section 4 of the Act for the export of grains shall be directed in writing to the Executive Officer or Assignee, as the case may be.
- (2) Such an application shall be made at least three working days before the intended date of export.
- (3) The following particulars shall be supplied when such application is made:
- (a) The name and address of the applicant and where applicable, of his agent or exporter.
 - (b) The grade and the class of the grains.
 - (c) The applicable Food Business Operator code.
 - (d) The number of containers and the mass of the grains in the consignment concerned.
 - (e) The intended date of export and the port from which the consignment concerned shall be exported.
 - (f) The destination of the consignment concerned.
 - (g) The address of the premises where the consignment concerned may be inspected and the date and time when the consignment will be ready for inspection.
 - (h) Any other pertinent information concerning the consignment.

Presentation for inspection

4. (1) Each consignment of grains 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 grain concerned shall –
- (a) be presented for inspection when delivered by the producer to a grain elevator;
 - (b) be presented for inspection at least 48 hours prior to the intended time of export or as otherwise arranged with the Executive Officer or Assignee; or
 - (c) be presented for inspection at the inland point at which the consignment will be loaded and sealed into a shipping container, at least 48 hours before the container is to be sealed and released to the shipping agent.
- (2) A consignment referred to in subregulation (1) that shall be thus inspected, shall be stored in such a manner that –
- (a) access to each container therein can be obtained readily; and
 - (b) the marks, printing or writing on such containers can readily be read.

Consignment note

5. (1) Every consignment of grains 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 open as many containers in a consignment of grains, intended for export as he/she may deem necessary and inspect or analyse or have analysed the contents thereof in such a manner as he/she may deem fit.

(2) The result of an inspection or analysis in terms of subregulation (1) shall be deemed to be applicable to the whole consignment of grains from which such containers were abstracted.

(3) (a) An inspector may re-inspect a consignment of grains which has already been approved for export and may confirm or withdraw any previous approval with regard to the consignment concerned.

(b) The provisions of regulation 4 and this regulation shall *mutatis mutandis* apply to such re-inspection: 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 grains

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

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

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

(a) A reasonable demonstrable knowledge or expertise in the testing and analysis of grains;

(b) Compliance with the general criteria for testing laboratories as laid down in ISO/IEC 17025: 2017;

(c) Annual participation in appropriate proficiency testing schemes for analysis which conform to the requirements as laid down in the document titled "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 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 grains 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.

Approvals and rejections

9. (1) If an Inspector approves the export of a consignment of grains he/she shall --
- (a) mark each container in that consignment with a mark of approval; or
- (b) endorse the consignment note of that consignment to such effect; and
- (c) issue a certificate to the effect that such consignment has been approved for export.
- (2) If a consignment of grains has been rejected for export purposes as a result of an inspection or re-inspection carried out at a port of export, the custodian of that consignment shall as soon as feasible, remove it from the port area concerned.
- (3) Notwithstanding the provisions of subregulation (2), an inspector may, in the case of a consignment in connection with which an appeal is lodged --
- (a) direct that such consignment shall not without his/her consent be removed from the place where the inspection or re-inspection concerned was carried out; and
- (b) apply any mark to the containers concerned which he/she may deem necessary for identification purposes.

Appeal

10. 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 promulgated under the Act, to the Director-General.

Offences and penalties

11. 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

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

Repeal

13. Regulations published by Government Notice Nos. R.1026 of 19 December 2014 and R.48 of 30 January 2015 are hereby repealed from the date of commencement of these regulations.