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THE PRESIDENCY

No. 4594 **3 April 2024**

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

Act No. 12 of 2023: Agricultural Product Standards Amendment, Act 2023

DIE PRESIDENSIE

No. 4594 **3 April 2024**

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

Wet No. 12 van 2023: Wysigingswet op Landbouprodukstandaarde, 2023

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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 18 March 2024)

ACT

To amend the Agricultural Product Standards Act, 1990, so as to insert definitions and substitute others; to provide for auditing of a product for management control systems; to make provision for the setting of tariffs by assignees on a cost-recovery basis; to make further provisions for the Minister to make regulations pertaining to audit and management control systems; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 119 of 1990, as amended by section 1 of Act 63 of 1998

1. Section 1 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) 5
(hereinafter referred to as the principal Act), is hereby amended—
- (a) by the insertion after the definition of “assignee” of the following definition: 10
 “**‘audit’** means an examination of the management control system in order to determine whether activities and related results comply with the claims associated with the product;”;
- (b) by the substitution for the definition of “department” of the following 15
definition:
 “**‘department’** means the Department of Agriculture, Land Reform and Rural Development;”;
- (c) by the substitution for the definition of “Director-General” of the following 15
definition:
 “**‘Director-General’** means the Director-General[**: Agriculture**] of the department;”;
- (d) by the substitution for the definition of “management control system” of the 20
following definition:

- “**‘management control system’** means the [**principles of procedure with regard to a product, from its primary production to its sale or export**] prescribed method of production which may be claimed through the use of a name, word, expression, reference, particulars or indication in any manner, either by itself or in conjunction with any other verbal, written, printed, illustrated or visual material;” 5
- (e) by the substitution for the definition of “Minister” of the following definition: “**‘Minister’** means the [**Minister of Agriculture**] Cabinet member responsible for agriculture;”; and
- (f) by the substitution for the definition of “sell” of the following definition: 10
 “**‘sell’** includes [**agree**] to [**sell, or**] offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale, or to exchange or to dispose of to any person in any way for [**any**] a consideration and ‘sold’, ‘selling’ and ‘sale’ have a corresponding meaning;”.

Amendment of section 2 of Act 119 of 1990, as amended by section 2 of Act 63 of 1998 15

2. Section 2 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

- “(a) The Minister may, for the purposes of the application of this Act or certain provisions thereof, **with regard to a particular product, designate any person, undertaking, body, institution, association or board having particular knowledge in respect of the product concerned, as an assignee in respect of that product**] designate as assignee a person, undertaking, body, institution, association, or board— 20
- (i) having a particular knowledge of the product concerned; or 25
- (ii) having a particular knowledge of the relevant management control systems, with no direct or indirect personal or financial interest.”.

Amendment of section 3 of Act 119 of 1990, as amended by section 3 of Act 63 of 1998

3. Section 3 of the principal Act is hereby amended by the insertion after subsection (1A) of the principal Act of the following subsection: 30

- “(1B) Any fee determined in terms of subsection (1A)(b)(ii) shall be calculated on a cost-recovery basis, and shall only come into effect if—
- (a) the assignee concerned, within a specified period, has submitted a business plan and budget setting out the powers and duties to be exercised and performed by the assignee and the expected costs associated therewith to the executive officer for consideration; 35
- (b) the executive officer, within a specified period, has invited written comment on the business plan and budget of such assignee from interested parties or individuals who are directly affected by the actions of that assignee; and 40
- (c) the executive officer, after consideration of the comments received in terms of paragraph (b), has in writing approved the business plan and budget of the assignee for a specified period, not exceeding 12 months, set out in such approval.”. 45

Amendment of section 3A of Act 119 of 1990, as inserted by section 4 of Act 63 of 1998

4. Section 3A of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: 50
 “**3A. [Inspection] Audit or inspection, grading and sampling for quality control**”;
- (b) by the substitution in subsection (2) for paragraph (c) of the following paragraph:
 “(c) [**In the case of action under subsection (1)(d), the**] The relevant person referred to in subsection (1) may [**inspect**] audit the management control system [**in connection with any action referred to in subsection (1)(d),**] and demand from the owner or custodian of the 55

- “ ‘Minister’ die [Minister van Landbou] Kabinetslid verantwoordelik vir landbou;”;
- (e) deur die volgende omskrywing na die omskrywing van “onderskeidingsmerk” in te voeg:
 “ ‘**audit**’ ’n ondersoek van die bestuursbeheerstelsel ten einde vas te stel of aktiwiteite en verwante resultate aan die aansprake wat met die produk geassosieer word, voldoen;”;
- (f) deur die omskrywing van “verkoop” deur die volgende omskrywing te vervang:
 “ ‘**verkoop**’ ook [ooreenkom om te verkoop, of] vir verkoop aanbied, adverteer, hou, uitstal, versend, vervoer, lewer of berei, of om te verruil of op enige wyse aan enige persoon vir ’n teenprestasie van die hand te sit, en het ‘verkoop’ wanneer dit as ’n selfstandige naamwoord of in die verledetydsvorm gebruik word ’n ooreenstemmende betekenis;”.

Wysiging van artikel 2 van Wet 119 van 1990, soos gewysig deur artikel 2 van Wet 63 van 1998

2. Artikel 2 van die Hoofwet word hierby gewysig deur in subartikel (3) paragraaf (a) deur die volgende paragraaf te vervang:
 “(a) Die Minister kan vir die doeleindes van die toepassing van hierdie Wet of sekere bepalinge daarvan, met betrekking tot ’n bepaalde produk, enige persoon, onderneming, liggaam, instelling, vereniging of raad wat besondere kundigheid ten opsigte van die betrokke produk het, as ’n gemagtigde ten opsigte van daardie produk aanwys] ’n persoon, onderneming, liggaam, instelling, vereniging of raad, met geen direkte of indirekte finansiële belang nie—
 (i) wat bepaalde kennis van die betrokke produk het; of
 (ii) wat bepaalde kennis van die relevante bestuursbeheerstelsel het, as ’n gemagtigde aanwys.”.

Wysiging van artikel 3 van Wet 119 van 1990, soos gewysig deur artikel 3 van Wet 63 van 1998

3. Artikel 3 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (1A) in te voeg:
 “(1B) Enige gelde wat ingevolge subartikel (1A)(b)(ii) bepaal word, sal op ’n kosteverhalingsgrondslag bereken word, en sal slegs in werking tree indien—
 (a) die betrokke gemagtigde, binne ’n bepaalde tydperk, ’n besigheidsplan en begroting waarin die bevoegdhede en pligte uiteengesit word wat die begunstigde moet uitoefen en uitvoer, en die verwagte koste daaraan verbonde, vir oorweging aan die uitvoerende beampte voorgelê het;
 (b) die uitvoerende beampte, binne ’n bepaalde tydperk, skriftelike kommentaar oor die besigheidsplan en begroting van sodanige gemagtigde van belanghebbende partye of individue aangevra het wat direk deur die aksies van daardie gemagtigde geraak word; en
 (c) die uitvoerende beampte, na oorweging van die kommentaar wat ingevolge paragraaf (b) ontvang is, die besigheidsplan en begroting van die gemagtigde skriftelik goedgekeur het vir ’n bepaalde tydperk van hoogstens 12 maande, soos in sodanige goedkeuring uiteengesit.”.

Wysiging van artikel 3A van Wet 119 van 1990, soos ingevoeg deur artikel 4 van Wet 63 van 1998

4. Artikel 3A van van die Hoofwet word hierby gewysig—
 (a) deur die opskrif deur die volgende opskrif te vervang:
 “3A. [Inspeksie] **Oudit of inspeksie, gradering en monsterneming vir gehaltebeheer**”;
- (b) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:
 “(c) [In die geval van optrede kragtens subartikel (1)(d) kan die Die toepaslike persoon in subartikel (1) bedoel, kan die bestuursbeheerstelsel [in verband met enige optrede in subartikel (1)(d) bedoel, inspekteer] ouditeer en van die eienaar of bewaarder van

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product, material, substance or other article in question, or from the person supervising such management control system, any formation or an explanation regarding the management control system, product, material, substance or other article in question.”; and

(c) by the substitution in subsection (4) for the following subsection: 5

“(4) In the case of action under subsection (1)(b), (c), (d) or (e), or subsection (2)(c) by the relevant person referred to in subsection (1), the owner of the product in question shall pay the prescribed fees or the amount determined by the assignee, as the case may be, for such action.”. 10

Amendment of section 15 of Act 119 of 1990, as amended by section 15 of Act 63 of 1998

5. Section 15 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (d) of the following paragraph: 15

“(dA) management control systems;” and

(b) by the substitution in subsection (1) for paragraph (g) of the following paragraph:

“(g) audit or inspection fees that have been determined by the assignee;” 20

Short title and commencement

6. This Act is called the Agricultural Product Standards Amendment Act, 2023, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

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die betrokke produk, materiaal, stof of ander artikel, of van die persoon wat oor die bestuursbeheerstelsel toesig hou, enige inligting of verduideliking betreffende die betrokke bestuursbeheerstelsel, produk, materiaal, stof of ander artikel vereis.”; en

- (c) deur subartikel (4) deur die volgende subartikel te vervang: 5
 “(4) In die geval van optrede kragtens subartikel (1)(b), (c), (d) of (e),
 of subartikel (2)(c) deur die toepaslike persoon in subartikel (1) bedoel,
 moet die eienaar van die betrokke produk die voorgeskrewe gelde of die
 bedrag vasgestel deur die gemagtigde, na gelang van die geval, vir die
 optrede betaal.”. 10

Wysiging van artikel 15 van Wet 119 van 1990, soos gewysig deur artikel 15 van Wet 63 van 1998

5. Artikel 15 van die Hoofwet word hierby gewysig—
- (a) deur die volgende paragraaf na paragraaf (d) in subartikel (1) in te voeg: 15
 “(dA) bestuursbeheerstelsels”; en
- (b) deur in subartikel (1) paragraaf (g) deur die volgende paragraaf te vervang:
 “(g) oudit- of inspeksiegelde wat deur die gemagtigde bepaal is.”.

Kort titel en inwerkingtreding

6. Hierdie Wet heet die Wysigingswet op Landbouproduktstandaarde, 2023, en tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* vasgestel. 20