

GOVERNMENT NOTICES

DEPARTMENT OF AGRICULTURE

No. R. 1002

30 October 2009

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

REGULATIONS REGARDING CONTROL OF THE EXPORT OF EGGS

The Minister of Agriculture has, under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), –

- (a) made the regulations in the Schedule;
- (b) repealed the regulations published by Government Notice No. R. 1987 of 23 August 1991;
- (c) determined that the said regulations shall come into operation seven days after publication.

SCHEDULE

Definitions

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

"consignment" means a quantity of eggs which is delivered at any one time under cover of the same consignment note, delivery note or receipt note, or is delivered by the same vehicle, or if such a quantity is subdivided into different production groups, grades, size groups or classes each quantity of each of the different production groups, grades, size groups or classes;

"eggs" means the eggs of the species *Gallus domesticus* (domesticated fowls); *Meleagrus gallapvo* (turkeys) and *Anas* (ducks and muscovies);

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

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

Prohibition on the export of eggs

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

(2) Eggs which is –

- (a) exported to countries specified in the Annexure;
- (b) exported in a consignment of less than 20 kg; and
- (c) taken in as provisions for consumption 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 designated with regard to eggs.

Application for approval for export

3. (1) An application for an approval in terms of section 4 of the Act for the export of eggs, shall be directed in writing to the Executive Officer or the Assignee designated with regard to eggs, as the case may be.
- (2) Such an application shall be made at least 72 hours before the intended date of export.
- (3) The following particulars shall be supplied when such an application is made:
- (a) The name and address of the applicant and where applicable, the name and address of the agent or exporter, as the case may be.
 - (b) The grade and size of eggs which comprises the consignment concerned.
 - (c) The number of containers in and the mass of the consignment concerned.
 - (d) The intended date of export, the method of transport and, in the case of export by sea, the name of the vessel concerned and the port from which the consignment concerned shall be exported.
 - (e) The destination of the consignment concerned.
 - (f) 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.
 - (g) The trade mark and, where applicable, the code mark which appear on the containers concerned.
 - (h) Any other pertinent information concerning the consignment.

Presentation for inspection

4. (1) Each consignment of eggs intended for export which has to be presented for inspection in terms of these regulations shall, prior to the export thereof, be inspected by an inspector.
- (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 readily obtained; and
 - (b) the marks, code marks, printing or writing on such containers can readily be read.

(3) A person who submits an application for approval in terms of regulation 3, shall pay the prescribed inspection fee specified in the regulations made for this purpose under section 15 of the Act, to the Executive Officer or the Assignee concerned, as the case may be.

Procedure at inspection

5. (1) An inspector may open as many containers in a consignment of eggs intended for export as he may deem necessary and inspect or analyse or have analysed the contents thereof in such a manner as he or 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 eggs.
- (3) (a) An inspector may re-inspect a consignment of eggs 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.

Approvals and rejections

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

Appeals

- 7. (1) Any person who appeals in terms of section 10 of the Act against a decision or direction of an inspector, shall –
 - (a) submit the appeal within 24 hours of such decision or direction;
 - (b) submit the appeal in writing to the Director-General or at any office of the Executive Officer;
 - (c) specify the grounds on which the appeal is based;
 - (d) simultaneously pay the prescribed fees to the Executive Officer; and
 - (e) inform the inspector concerned of the submission of the appeal.
- (2) An appeal which is not lodged within the prescribed period or in respect of which the prescribed fees have not been paid, shall not be considered.
- (3) An appeal board shall decide on such an appeal within 48 hours, excluding Saturdays, Sundays, and public holidays, after it has been lodged.
- (4) The appeal board shall –
 - (a) notify the appellant as well as the inspector concerned at least 12 hours beforehand of the date and time on which and place at which the appeal shall be heard and afford them the opportunity to be heard;

(b) direct the appellant concerned to present the consignment concerned on the specified date, time and place for inspection; and

(c) after having identified the consignment and having heard all interested parties, decide *in camera* on the appeal: Provided that the appeal board may hear expert opinion and may take, inspect, analyse and grade a sample of the product concerned, before deciding on such an appeal.

(5) If an appellant fails to present the consignment to which an appeal relates for inspection as referred to in subregulation (4)(b) or if the appeal is dismissed, the fees paid in respect thereof shall be forfeited to the State.

(6) If an appeal board fails to decide on an appeal within the period specified in subregulation (3), it shall be deemed that such appeal board has set aside the decision or direction against which the appeal was lodged.

(7) If an appeal is upheld in part only, the appeal board may, in terms of section 10(9)(b) of the Act, determine that a *pro rata* portion of the fee referred to in subregulation (1)(d) shall be refunded to the appellant: Provided that such *pro rata* refund shall not be greater than 90 per cent of the fee concerned.

Offence and penalties

8. Any person who contravenes or fails to comply with the provisions of these regulations, shall be guilty of an offence and upon conviction be liable to a fine or imprisonment in accordance with section 11 of the Act.

ANNEXURE

COUNTRIES IN RESPECT OF WHICH THE PROHIBITION IS NOT APPLICABLE

Kingdom of Lesotho.
Kingdom of Swaziland.
Republic of Botswana.
Republic of Namibia.
Republic of Mozambique.
Democratic Republic of Congo.
Republic of Malawi.
Republic of Angola.
Republic of Zimbabwe.
Republic of Zambia.