
GENERAL NOTICES ALGEMENE KENNISGEWINGS

NOTICE 829 OF 2014

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

AGRICULTURAL PRODUCT STANDARDS AMENDMENT BILL, 2014

INVITATION FOR PUBLIC COMMENTS

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries hereby invite all interested institutions, organizations and individuals to submit written comments on the Agricultural Product Standards Amendment Bill.

Comments must be submitted in writing within 30 days from date of publication of this notice. They must be sent to:

The Executive Officer: Agricultural Product Standards
Directorate: Food Safety and Quality Assurance
Department of Agriculture, Forestry and Fisheries
Private Bag X343
Pretoria
0001

Physical address: Department of Agriculture, Forestry and Fisheries
30 Hamilton Street
Harvest House Building; Room 143
Arcadia
Pretoria

E mail: BillyM@daff.gov.za

Fax: 012 319 6055/6265

Senzeni Zokwana (MP)

Minister of Agriculture, Forestry and Fisheries

REPUBLIC OF SOUTH AFRICA

AGRICULTURAL PRODUCT STANDARDS AMENDMENT BILL

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*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill published in Government Gazette No. 38032 of 3 October 2014)
(The English text is the official text of the Bill)*
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(MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES)

[B-2014}

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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

BILL

To amend the Agricultural Product Standards Act, 1990, so as to insert a definition and substitute others; to provide for auditing of a product for quality control; to make provision for management control system; 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) (hereinafter referred to as the principal Act), is hereby amended -

(a) by the insertion after the definition of "**assignee**" of the following definition:

"audit" means a systematic and functionally independent examination of a product to determine whether activities and related results comply with the management control system;"

(b) by the substitution for the definition of "**department**" of the following definition:

"department" means the Department of Agriculture, Forestry and Fisheries;"

(c) by the substitution for the definition of "**Director-General**" of the following definition:

"Director-General" means the Director-General[: Agriculture] of the department;"

(d) by the substitution for the definition of "**management control system**" of the following definition:

"management control system" means the prescribed management control system [principles of procedure] that relates to the [with regard to a product, from its primary production to its sale or export.] production, handling, storage, processing and distribution of certain agricultural products contemplated under that system, and includes any claims or statements associated therewith such as method of production, quality and food safety"

- (e) by the substitution for the definition of "**Minister**" of the following definition:

"Minister' means the Minister responsible for agriculture, forestry and fisheries;"; and

- (f) by the substitution for the definition of "**sell**" of the following definition:

"sell' includes agree to sell, or offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale, or exchange or to dispose of in any way for any consideration or otherwise; and "sold", "selling" and "sale" shall have a corresponding meaning;".

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

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 specific provisions thereof, with regard to a particular product or a management control system related to that product, designate any one or more person, undertaking, body, institution or [,] association [or board] having a particular knowledge in respect of the product concerned or management control system, as an assignee in respect of that product or management control system."

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 - -

- (a) Section 3 of the principal Act is hereby amended by the substitution in subsection (1)(a) for subparagraph (iii) of the following subparagraph:

"(iii) unless the prescribed requirements in connection with the **[management control system]** packing, marking and labelling of that product are complied with;"

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

"(1B) Any fee prescribed or determine in terms of subsection (1A)(b)(i) or (1A)(b)(ii) shall be calculated on a cost recovery basis, and a fee determined in terms of subsection (1A)(b)(ii) shall only come into effect if - -

- (a) the assignee concerned 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;
- (b) The executive officer, within the period set out in such invitation, has invited written comment on the business plan and budget of such assignee from parties representative of the interests of individuals that in the opinion of the executive officer are directly affected by the actions of that assignee; and
- (c) the executive officer, after consideration of the comments received in terms of paragraph (b), have in writing approved the business plan and budget of the assignee with effect from the date set out in such approval."

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 by the substitution in subsection (2)(d) for subparagraph (iii) of the following subparagraph:

"(iii) as soon as possible after it has been taken, be submitted to a person, undertaking, body, institution, association [, **board**] or laboratory which is competent to test, inspect or analyse that sample."

Amendment of section 4 of Act 119 of 1990, as amended by section 73 of Act 129 of 1993 and section 5 of Act 63 of 1998

5. Section 4 of the principal Act is hereby amended by the substitution in subsection (3)(a) for subparagraph (ii) of the following subparagraph:

"(ii) if that quantity of the product complies with the standards regarding the quality of the product, and with the requirements regarding the **[management control system,]** packing, marking, labeling of the product, stipulated only by the executive officer for the product concerned."

Insertion of section 4B in Act 119 of 1990

6. The following section is hereby inserted after section 4A of the principal Act:

"Management control system

4B. (1) The Minister shall, by notice in the *Gazette*, prescribe a management control system that may apply to a product - -

(a) prohibit the sale or export of a prescribed product, unless the product -

(i) complies with the prescribed management control system;

(ii) has been audited by the executive officer or his or her assignee contemplated in section 2(3);

(iii) has been inspected and graded according to the quality management system as prescribed; and

(iv) complies with the production method as prescribed;

(b) exclude a prescribed -

(i) category of persons; or

(ii) area, and

from a prohibition contemplated in paragraph (a).

(c) The executive officer may, in writing, exempt any person either fully or partially, in general or in respect of a particular quantity of a product; or on the conditions which he or she deems necessary, from a prohibition referred to in subsection (1).

Amendment of section 8 of Act 119 of 1990, as amended by section 10 of Act 63 of 1998

7. Section 8 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A person referred to in section 7(1), who has entered upon a place, premises or conveyance in terms of that section, may in terms of section 7(1)(c) or (5), seize the whole, or any part or quantity, of a product, material, substance or other article, or any book or document, that -

(a) is concerned or is on reasonable grounds believed by him or her to be concerned in the commission or suspected commission of any offence under this Act;

(b) may afford evidence of the commission or suspected commission of any such offence; or

- (c) is intended or is on reasonable grounds suspected to be intended to be used in the commission of any such offence."

Amendment of section 11 of Act 119 of 1990, as substituted by section 13 of Act 63 of 1998

8. Section 11 of the principal Act is hereby amended by -

- (a) the substitution in subsection (1) for paragraph (c) of the following paragraph:

"(c) contravenes or fails to comply with a condition imposed in terms of section 4(3)(a)(i), 4A(1)(b), 4B(1)(a) or 16(3)(a)."

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

9. Section 15 of the principal Act is hereby amended by -

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

"(dA) management control systems;"; and

- (b) the substitution for paragraph (g) of the following paragraph:

"(g) audit or inspection fees that have been determined by the assignee;"

Substitution of long title of Act 119 of 1990, as substituted by section 16 of Act 63 of 1998

10. The following long title is hereby substituted for the long title of the principal Act:

"To provide for control over the sale and export of certain agricultural products, control over the sale of certain imported agricultural products; and control over other related products; to provide for management control systems, and for matters connected therewith."

Short title and commencement

11. This Act is called the Agricultural Product Standards Amendment Act, 2014, and comes into operation on a date fixed by the President by proclamation in the Gazette.