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## GENERAL NOTICES ALGEMENE KENNISGEWINGS

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### NOTICE 1148 OF 2014

#### DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

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

#### PROPOSED REGULATIONS REGARDING CONTROL OF IMPORT OF AGRICULTURAL PRODUCTS

I, Mr. S Zokwana, Minister of Agriculture, Forestry and Fisheries has, under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) hereby-

- (a) make known that I intend to make regulations in the Schedule;
- (b) invite interested persons to submit comments and any representations concerning the proposed regulations in writing within twelve (12) weeks from the date of publication to the following address:

Executive Officer: Agricultural Product Standards  
Department of Agriculture, Forestry and Fisheries  
Private Bag X343, Pretoria, 0001  
Tel. (012) 319 6023 and Fax No. (012) 319 6055  
Email: [BillyM@daff.gov.za](mailto:BillyM@daff.gov.za)

- (c) make known that the regulations may be obtained from the departmental website:  
<http://www.daff.gov.za/pages/sideMenu/FoodSafety.html> or can be sent through electronic mail or posted by mail to any person upon request.

(Mr) S Zokwana, MP

The Honourable Minister of Agriculture, Forestry and Fisheries

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## DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

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

### DRAFT:REGULATIONS REGARDING CONTROL OF IMPORT OF CERTAIN AGRICULTURAL PRODUCTS

The Minister of Agriculture, Forestry and Fisheries has under section 15 of the Agricultural Product Standards Act, 1990 (Act 119 of 1990)-

- (a) made the regulations in the Schedule; and
- (b) determined that the said regulations shall come into operations on the date of publication thereof.

### 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) of the Act;

**“executive officer”** means officer designated under section 2(1) and 2(2) of the Act;

**“certain agricultural products”** means products regulated in terms of section 3 of the Agricultural Product Standards, 1990 (Act no.119 of 1990);

**“consignment”** means a quantity of certain agricultural products of the same grade, belonging to the same owner and 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 conveyance, or such a quantity is sub sorted into different batches, grades or size groups, each quantity of each of the different batches, grades or size groups.

**“processing”** means certain agricultural product that shall be subjected to following processes upon import which will alter its original state—

- (i) the addition of any processing aids or additives;
- (ii) the addition of nutrients;
- (iii) the addition of microbiological organisms;
- (iv) the freezing or freeze-drying of a foodstuff;
- (v) the creation of a low water activity/removal of moisture;
- (vi) the irradiation of any of the foodstuff's components;
- (vii) any form of heat treatment;
- (viii) deflavouring;
- (ix) deionising;
- (x) refining;
- (xi) fermentation;
- (xii) maturing, electrical stimulation and tenderizing

but excludes-

- (i) harvesting;
- (ii) slaughtering;
- (iii) cleaning;

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- (iv) decapitating;
- (v) defeathering;
- (vi) dehairing
- (vii) eviscerating;
- (viii) portioning;
- (ix) sectioning;
- (x) mincing;
- (xi) deboning;
- (xii) washing;
- (xiii) chilling
- (xiv) removal of fish scales;
- (xv) removal of blemishes and foliage of fruit and vegetables;
- (xvi) removal of inedible skins and seeds of fruits and vegetables;
- (xvii) removal of the skins of animals; or
- (xviii) the mixing, compounding or blending of ingredients that occur in nature and have not been processed;

**“inspector”** means the Executive Officer or an officer under his control, or an assignee or an employee of an assignee;

**“products”** means –

- (a) any commodity of vegetable or animal origin, or produced from a substance of vegetable or animal origin and which consists wholly or partially of such substance; and
- (b) any other commodity with a general appearance, presentation and intended use corresponds to a commodity referred to in paragraph (a); and

**“the Act”** means the Agricultural Product Standards Act, 1990 (Act 119 of 1990).

***Restrictions on the importation of certain agricultural products***

2. (1) No person shall import certain agricultural products in the Republic of South Africa;
- (a) unless the importer provides information upon import as set out in regulation 3;
  - (b) unless the certain agricultural products compliance with requirements set out in regulation 4;
  - (c) unless certain agricultural products are checked for conformity at the point of import as set out in regulation 5; and
  - (d) unless certain agricultural products are inspected in accordance with the methods of inspection set out in regulation 6.

***Information to be provided to officers upon import of certain agricultural products***

3. (1) The officers should be provided with the details of the consignment by the importer or representative which shall include:
- (a) Date of import and point of entry;
  - (b) Mode of transport;
  - (c) Comprehensive description of the commodity;
  - (d) Importer's name and address;

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- (e) Importer's Food Business Operator (FBO) code;
- (f) Final destination and the intended use of the product; and
- (g) Any other relevant information.

(2) For the purpose of applying the Regulations, for which the product is regulated in terms of the Act, invoices and accompanying documents shall indicate the quality, class, the country of origin of the products and where appropriate, the intended use.

***Inspection and verification for purposes of compliance to the regulations on certain agricultural products***

4. (1) Imports of certain agricultural products must fully comply with section 4A (1) (a) of the Act.

(2) Inspection and verification for purposes of conformity must be carried out before these products enter into trade or certain agricultural products enter into the South African customs territory.

(3) Whenever an officer considers it necessary for the purpose of sub-regulation (1) that any of the regulated imported certain agricultural products should be analysed he may direct that such agricultural products to be analyzed by a person, undertaking, body, institution, association, board or laboratory which is competent to test, inspect or analyze that sample.

(4) Should a non complaint product be found as a result of inspection and analysis of certain agricultural products the Executive Officer may order that such consignment be;

- (a) confiscated; or
- (b) returned to the port of shipment or place of origin; or
- (c) released on conditions specified by the Executive Officer.

***Conformity checks at the point of import***

5. (1) The officer at the point of import, shall carry out conformity check for each imported consignment and where those products conform to the regulations; a conformity certificate as in the form prescribed in Annexure A shall be issued out. Where the import consignment consists of several lots, the conformity of those lots may be certified on a single certificate which clearly lists the various lots contained in the consignment.

(2) Notwithstanding other applicable Acts the officer shall authorize release for free circulation only if:

- (a) The certain agricultural products are certified by a certificate referred to in regulation 5(1).
- (b) The officer shall inform the customs authority, by copy of the release form that the relevant consignment has been subject to the conformity check.

(3) Where on import, a consignment is found not to conform to the regulation the officer shall immediately notify the importer or representative or other person in charge of such consignment who shall pass the information to the exporting territory. The Executive Officer shall be copied in this regard.

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***Methods of inspection***

6. (1) When the officer find that the agricultural products comply to the regulations as set out in Section 4A of the Act, the Executive Officer or assignee shall issue a certificate of conformity as set out in Annexure A. This certificate shall be issued at the import control point or other premises where the consignment or product was inspected.

(2) Where the agricultural products do not comply with the regulations, the officer shall issue a non-conformity certificate for the attention of the importer or their representatives. Certain agricultural products for which a Direction/ seizure has been issued regarding quality may not be moved without the authorization of the Executive Officer.

(3) The importer may bring all or some of the products into conformity. Products brought into conformity may not be marketed before the competent officer has ensured by all appropriate means that such products have been brought to conformity. An officer shall issue where applicable a certificate as set out in Annexure A for the consignment or part thereof only once the products have been brought into conformity.

(4) The officer may authorize by means of direction that such products be brought into conformity by the importer by either through-

- (a) Downgrading or re-classifying,
- (b) Relabeling or remarking; and/ or
- (c) Altering the intended use of the product in accordance with to the new labell.

***Control over non conformances***

7. (1) Non-conforming imported product into the Republic shall not be removed from the prescribed port of entry or such other place as the Executive officer may determine unless—

- (a) each quantity of such products intended for sale in the Republic has been approved by the Executive officer for that purpose; or
- (b) written permission for the removal of a particular quantity of such product has been granted by the executive officer on the conditions he or she deems necessary.

(2) The executive officer may exempt, in writing a quantity of a prescribed product from complying with the provisions of regulation 5 (1) if such product is imported for the purpose other than for the purpose of sale in the Republic.

***Products intended for other purposes other than sale***

8. (1) For the purpose of the application of the Regulation, products intended for other purpose other than for sale shall only be released in terms of regulation 5(3).

(2) The Executive officer may exempt, in writing, a quantity of a prescribed product from complying with the provisions of section 4A (1) of the Act if such quantity of a product is imported for purposes other than for the purpose of sale in the Republic.

(3) The packaging of products for other purposes other than sale must be clearly marked with the expression "intended for processing" or any other words having relevant meaning to the declared purpose. In the case of the certain agricultural products transported in bulk, or directly loaded onto a means of transport, an indication shall be given in a document accompanying the products or shown on a notice placed in an obvious position inside the means of transport.

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***Expenses of inspection, examination, and analysis***

9. (1) All handling and dealing with imported certain agricultural products for the purpose of the Act shall be performed at the expense and risk of the importer or other person, whoever is in control of certain agricultural products, except in the case of certain agricultural products examined at a customs and excise warehouse, where such handling of and dealing with certain agricultural products may be performed at the expense and risk of the importer.

(2) The Minister or the Executive officer shall in no case be liable in respect of any claim arising out of the detention or examination of certain agricultural products or for costs of such detention or examination.

(3) The cost of analysis of the imported certain agricultural products for the purpose of regulation 5 shall be borne by the importer.

***Designation of officers***

10. (1) The Executive Officer or the Assignee shall coordinate and compile contacts of competent officers at the points of entry into South Africa with respect to products that are regulated in terms of section 4(A)(1) of the Agricultural Product Standards Act, 1990 (Act 119 of 1990) as listed.

(2) The executive officer or the assignee shall communicate:

- (a) The contact information of officers appointed for the purpose of the application of the regulations of certain agricultural products.
- (b) The exact description of the respective spheres of activity of the inspector appointed.

***Exchange of information to the exporting country***

11. (1) The Director: Food Safety and Quality Assurance or the Executive Officer shall pass the information to the exporting territory countries, once the imported consignment is found to be non-conforming to section 4A (1) of the Act.

(2) The information to the exporting countries authorities may include the following:

- (a) Identification of the product concerned.
  - (i) Description and quantity of product.
  - (ii) Type and size of package or lots
  - (iii) Container number, bill of loading or transportation details.
  - (iv) Other identification stamps, marks or numbers.
  - (v) Certificate number
  - (vi) Name and address of manufacturer, producer, seller and/or exporter, establishment number as appropriate.
- (b) Importation details.
  - (i) Port or point of entry
  - (ii) Name and address of importer.

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- (iii) Date presented for entry.
- (c) Details of rejection decision.
  - (i) Whole/part of consignment rejected
  - (ii) Name and address of Assignee making decision to reject
  - (iii) Date of decision
  - (iv) Name and details of the inspector who can provide more reason for rejection.
- (d) Reason(s) for rejection on the basis of either one or more of the following;
  - (i) Incorrect or misleading labeling
  - (ii) Compositional defect
  - (iii) As required
  - (v) Technical or physical defects (e.g., packaging damage).
- (e) Indication of action taken with regard to the consignment such as;
  - (i) Consignment held pending reconditioning/rectification of deficiencies in documentation.
  - (ii) Consignment held pending final judgment.
  - (iii) Import granted for use other than sale;
  - (v) Re-export granted under certain conditions, e.g. to specified informed countries.
  - (vi) Authorities in other likely destination countries notified.

(3) Where certain agricultural products have been rejected on the basis of sampling and or analysis the details with regard to sampling and analytical methods and test results and the identity of the testing laboratory shall be made available by the Executive Officer upon request.

### OFFENCES AND PENALTIES

12. 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 terms of section 11 of the Act.

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## ANEXURE A

RELEASE FORM OF CONFORMITY TO PRODUCT REGULATIONS OF THE AGRICULTURAL  
PRODUCT STANDARDS ACT, 1990 (ACT 119 OF 1990)

1.Importer	<b>Certificate of conformity with the prescribed Agricultural product Regulations in terms of Agricultural Product Standard Act, 1990 (Act 119 of 1990)</b> <b>No_____</b> (This certificate is exclusively for use by assigned officer )						
2. Packer identified on Packaging	3. Inspection body	4. Country of origin					
	5. Place of inspection/	6. Name and address of final destination					
7.Means of transport		8. Packages (number and type)					
9. Product Name (variety if standard specifies)	10. Quality class	11. Total weight in kg gross/net ( )					
12. The abovementioned inspection body certifies after inspection by sampling certain agricultural products comply at the time of inspection to the Regulation -----in force  _____ Customs officer foreseen: entry  <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">           _____            Inspection / Assignee         </td> <td style="width: 50%; text-align: center;">           _____            Place and date of issue         </td> </tr> <tr> <td style="width: 50%; text-align: center;">           _____            Officer's Name and Surname            (name in block letters)         </td> <td style="width: 50%; text-align: center;">           _____            Signature         </td> </tr> </table>				_____ Inspection / Assignee	_____ Place and date of issue	_____ Officer's Name and Surname (name in block letters)	_____ Signature
_____ Inspection / Assignee	_____ Place and date of issue						
_____ Officer's Name and Surname (name in block letters)	_____ Signature						
13. Comments							



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## ANNEXURE B

**CERTIFICATE OF INDUSTRIAL USE FOR AGRICULTURAL PRODUCT REGULATIONS IN TERMS  
OF THE AGRICULTURAL PRODUCT STANDARD ACT, 1990 (ACT 119 OF 1990)**

1. Importer	<p align="center"><b>Certificate of Industrial use</b>  <b>Agricultural products Regulations in terms of Agricultural</b>  <b>Product Standard Act, 1990 (Act 119 of 1990)</b>  <b>No _____</b></p> <p align="center">(This certificate is exclusively for use by assigned inspector)</p>										
2. Means of transport	3. Inspection body issuing the certificate										
4. Intended use of Product	5. Name and address of final destination.										
6. Number of packages or the words in bulk	7. Nature of the products and country of origin	8. Total weight in kg gross/net ( )									
<p>9.</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 40%; border-bottom: 1px solid black;">Customs officer foreseen: entry</td> <td style="width: 40%; border-bottom: 1px solid black;">Place and date of issue</td> <td style="width: 20%;"></td> </tr> <tr> <td></td> <td></td> <td align="right">Inspection stamp</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Officer's name and Surname (name in block letters)</td> <td style="border-bottom: 1px solid black;">Signature</td> <td></td> </tr> </table>			Customs officer foreseen: entry	Place and date of issue				Inspection stamp	Officer's name and Surname (name in block letters)	Signature	
Customs officer foreseen: entry	Place and date of issue										
		Inspection stamp									
Officer's name and Surname (name in block letters)	Signature										
10. Comments											
<p>11. The Importer/ processor certifies that the certain agricultural products are intended for further processing</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 33%; border-bottom: 1px solid black;">Place and date</td> <td style="width: 33%; border-bottom: 1px solid black;">Signature</td> <td style="width: 33%; border-bottom: 1px solid black;">Stamp</td> </tr> </table>			Place and date	Signature	Stamp						
Place and date	Signature	Stamp									
<p>12. The certificate shall be returned, signed and stamped in box 11, after processing of the products mentioned in boxes 6, 7 and 8 to the inspector mentioned in box 3.</p>											