

BOARD / RAAD
NOTICE 300 OF 2016

APPLICATION FOR A STATUTORY LEVY IN TERMS OF THE MARKETING OF AGRICULTURAL PRODUCTS
ACT, 1996, (ACT NO 47 OF 1996), (MAP ACT) AS AMENDED

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**INVITATION TO DIRECTLY AFFECTED GROUPS IN THE WINTER CEREAL INDUSTRY TO FORWARD
COMMENTS REGARDING THE REQUEST FROM GRAIN SA, AGBIZ GRAIN, SANSOR AND THE ARC SGI
FOR THE ESTABLISHMENT OF A BREEDING AND TECHNOLOGY LEVY ON WHEAT**

The current statutory measure regarding levies on winter cereals, as promulgated by Government Notice No. 38201 of 11 November 2014, that currently amounts to R17/ton (excl VAT) on wheat, will expire on 30 September 2016. The Wheat Forum recently applied to the Minister for Agriculture, Forestry and Fisheries for the establishment of new statutory levies on wheat and barley to finance information (as performed by the SA Grains Information Services (SAGIS)), quality and grading (as performed by the SA Grain Laboratory), transformation, administration, capacity building, research, the Supply & Demand Estimates Committee, and pre-breeding research (that provides building blocks for breeding). The NAMC is in the process of investigating this application.

The Minister and the National Agricultural Marketing Council (NAMC) also received a request from Grain SA, Agbiz Grain, the South African National Seed Organisation (SANSOR) and the Agricultural Research Council: Small Grain Institute (ARC SGI), for the establishment of a Breeding and Technology Levy, as indicated below (VAT excluded). The 'alternative' breeding levy proposal is only to be considered if the 'preferred' option is rejected or not acceptable.

'Preferred option': Breeding and Technology Levy	'Alternative option': Breeding and Technology Levy
<ul style="list-style-type: none"> • Wheat R 19,00 per metric ton • Barley R 19,00 per metric ton • on locally produced winter cereals as well as imported winter cereals • for a period of four years, from 1/10/2016 to 30/9/2020 	<ul style="list-style-type: none"> • Wheat R 25,00 per metric ton • Barley R 25,00 per metric ton • on locally produced winter cereals only • for a period of two years, from 1/10/2016 to 30/9/2018

In both options, persons involved at the first point of sale of winter cereals will be liable for payment of the proposed levy.

The applicants proposed that the Breeding and Technology Levy be administered by the newly established "SA Cultivar and Technology Agency" (SACTA), a Non-Profit Company. The aim is that SACTA would also eventually administer breeding and technology levies on behalf of other self-pollinated crops. The Board of Directors of SACTA will be constituted to include industry role players that are directly affected by the payment of the levies and the utilisation thereof.

Unfortunately, the Wheat Forum could not reach consensus on the final amount, manner of collection and the specific utilisation of a Breeding and Technology Levy. For this reason, the role players as stated above, are submitting two alternative options aimed at breeding and technology for wheat and barley. Letters of support were received from the role players concerned.

Statutory levies have been imposed over the past years on wheat and barley to, *inter alia*, provide financial support for seed breeding research projects. These statutory levies have been administered by the Winter Cereal Trust. The Winter Cereal Trust will continue to administer the industry levies aimed at general research, market information and transformation, as requested and currently being investigated by the NAMC.

BACKGROUND AND MOTIVATION:

Industry role players have, for some time, been acknowledging that there is a need for a sustainable Industry Research Funding Strategy for self-pollinated crops. To this end, a Wheat Forum resolution was passed in 2012 to find a sustainable and effective research funding model. Since then, the proposed implementation of a breeding and technology levy, based on the Australian end point royalty system, has been a standing item on the Wheat Forum and Wheat Forum Steering Committee agendas. The proposed statutory levy, as an effective and all-inclusive collection system for royalties, has been communicated to industry members throughout the Wheat Forum's investigative process.

Internationally, royalty collection systems are widely implemented and entail the collection of royalties on the actual yield that is produced. The royalty collection systems are essentially a risk sharing mechanism, whereby beneficiaries of research pay a levy based on benefits accruing (yield or utilisation), as a result of breeding activities.

Although good co-operation is normally experienced from role players in the industry, it remains necessary to impose statutory measures in respect of levies, for the following reasons:

- Historical experience has shown, both in South Africa and in other countries, that voluntary levies have a short life-span and are not generally successful for the funding of industry services.
- Agricultural research, especially the development of new varieties, cannot randomly be started and stopped. In order to have effective breeding programmes with top quality researchers, ongoing funding is required. The insecurity of voluntary levies leads to uncertainty and poor results in the long-run.
- The principle of "user-pay" is difficult to apply, as the results and application of variety development cannot be withheld from those that do not pay levies, especially in the case of self-pollinated crops such as wheat and barley.
- The entire value chain benefits from improved varieties, which are high yielding as well as drought, disease and insect resistant, and this justifies Government intervention. Affected groups will have a say in the utilisation of funds due to the representation on the Board of Directors of SACTA.

PARTICULARS OF STATUTORY MEASURE REQUIRED UNDER SECTION 10 OF THE MAP ACT

The relevant particulars, as required in terms of section 10(2) of the MAP Act, to be included in a request for the establishment of a statutory measure of this nature, are as follows:

- (a) The proposed statutory levy would relate to wheat and barley; and will apply to the whole of the Republic of South Africa in order to have a uniform system of levies without discrimination, which would exist if levies had to be imposed in certain areas and not in others.
- (b) The manner in which the objectives referred to in section 2(2) of the MAP Act will be advanced (namely increased market access for all market participants, promotion of the efficiency of the marketing of agricultural products, optimisation of export earnings from agricultural products and the enhancement of the viability of the agricultural sector) is summarised below.

The purpose and aim of this statutory levy are to compensate breeders of wheat and barley varieties for their contribution towards obtaining and utilising improved international agriculture related intellectual property to the benefit of the wheat and barley industries in the Republic of South Africa.

Sustainable commercial farming and food security in South Africa are to a large extent dependent on the cultivation of high yielding crops from seed varieties that are most suited to the particular region. Plant breeding is the science of changing the traits of plants to produce desired characteristics.

The development of new cultivars with improved quality and yield characteristics constitutes an important part of breeding and technology research undertaken by various organisations. The continuous development of new cultivars is indispensable to the sustained production of winter cereals in South Africa.

Worldwide, the levels of Plant Variety Protection (PVP) legislation and protection for self-pollinated crops is insufficient to guarantee a return on investment on intellectual property for the holders of such plant breeders rights. This is due to PVP exceptions such as the "Farmer's Privilege" and the fact that the offspring/grain produced from self-pollinated crops has the same genetic content as the parent. This means that seed can be harvested and replanted. It creates a situation where growers could, for example, only purchase one season's seed, then lawfully save seed of his harvest for the next, and subsequent planting seasons.

The consequence is that commercial seed sales are jeopardised by:

- low volumes (since it is cheaper to retain grain for seed);
- low prices (since any increase in prices triggers an increase in the use of farm saved seed).

International networks are critical in seed breeding with most agriculture related intellectual property owned by, or under foreign control. Without an appropriate mechanism to receive adequate compensation, and to account for the risk of exploitation, South Africa remains an unattractive destination for agriculture related intellectual property associated with self-pollinated crops. This means that South African access to internationally held nurseries, markers, techniques and technologies is being constrained. The result is that South African producers currently do not have access to improved agriculture related intellectual property that is available worldwide.

Most industry role players have realised the need for a sustainable industry research funding strategy for self-pollinated crops. These role players have agreed to apply for a breeding and technology statutory levy on such crops to encourage and stimulate the breeding of self-pollinated crops for the benefit of the production, processing and other value-adding industries in the Republic of South Africa.

- (c) The Administration of SACTA will be requested to take responsibility for the collection of the levies and for the administration functions associated with the statutory levy that is requested. The Board of Directors of SACTA will appoint specific persons to carry out these functions. These persons will request the Minister of Agriculture, Forestry and Fisheries to be designated and authorised as inspectors to perform the functions referred to in Section 21 of the MAP Act.
- (d) Annual audits will be executed by the Auditor-General.

BUSINESS PLAN PROPOSED

The income by means of the statutory levy is based on an expected success rate of 92% in the collection of levies. The business plan envisaged for the first year is as follows:

‘Preferred option’: Breeding and Technology Levy	‘Alternative option’: Breeding and Technology Levy																												
<p>Income budgeted at R65 million for 2016/17. The envisaged expenditure for the year is as follows:</p> <table data-bbox="183 589 769 1021"> <tr> <th></th><th>2016/2017</th></tr> <tr> <th></th><th>R</th></tr> <tr> <td>Administration (Audit fees, office rental, salaries, traveling and Board expenses)</td><td>4 876 920</td></tr> <tr> <td>Commission payable on levies collected by customers (2,5%)</td><td>1 625 640</td></tr> <tr> <td>Breeding & Technology payout to seed companies</td><td>46 818 432</td></tr> <tr> <td>Transformation done by seed companies</td><td>11 704 608</td></tr> <tr> <td></td><td>65 025 600</td></tr> </table>		2016/2017		R	Administration (Audit fees, office rental, salaries, traveling and Board expenses)	4 876 920	Commission payable on levies collected by customers (2,5%)	1 625 640	Breeding & Technology payout to seed companies	46 818 432	Transformation done by seed companies	11 704 608		65 025 600	<p>Income budgeted at R47 million for 2016/17. The envisaged expenditure for the year is as follows:</p> <table data-bbox="815 589 1417 1021"> <tr> <th></th><th>2016/2017</th></tr> <tr> <th></th><th>R</th></tr> <tr> <td>Administration (Audit fees, office rental, salaries, traveling and Board expenses)</td><td>3 553 500</td></tr> <tr> <td>Commission payable on levies collected by customers (2,5%)</td><td>1 184 500</td></tr> <tr> <td>Breeding & Technology payout to seed companies</td><td>34 113 600</td></tr> <tr> <td>Transformation done by seed companies</td><td>8 528 400</td></tr> <tr> <td></td><td>47 380 000</td></tr> </table>		2016/2017		R	Administration (Audit fees, office rental, salaries, traveling and Board expenses)	3 553 500	Commission payable on levies collected by customers (2,5%)	1 184 500	Breeding & Technology payout to seed companies	34 113 600	Transformation done by seed companies	8 528 400		47 380 000
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<p>In both options, the utilisation of statutory funds to support breeding research functions is based on the following:</p> <ul style="list-style-type: none"> • For commercial breeding activities of seed companies based on their performance and utilisation in the seed market; • Funds will be distributed according to the market share of each seed company; and • 20% of the levy will be used for transformation and development projects within the seed companies. 																													

The guidelines of the NAMC regarding the utilisation of statutory levy funds, which currently stipulate that at least 20% of levies collected should be used for transformation projects, were taken into account.

As the proposed Breeding and Technology Levy is consistent with the objectives of the MAP Act, the NAMC is investigating the possible implementation of the relevant statutory levy, in order to make a recommendation to the Minister.

Directly affected groups in the winter cereal industry are kindly requested to submit comments or objections regarding the proposed Breeding and Technology Levy to the NAMC in writing (fax 012 341 1911 or e-mail lizettem@namc.co.za) on or before 10 June 2016, to enable the Council to formulate its recommendation to the Minister in this regard.