

## DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

## NOTICE 628 OF 2018

## MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996

(ACT No. 47 OF 1996)

**ESTABLISHMENT OF STATUTORY MEASURE: RECORDS AND RETURNS RELATING TO MACADAMIA TREES AS WELL AS DOMESTIC PRODUCTION, PROCESSING, IMPORTS AND EXPORTS OF MACADAMIA NUTS**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, acting under sections 13 and 18 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), hereby establish the statutory measure set out in the Schedule.

SENZENI ZOKWANA,  
Minister of Agriculture, Forestry and Fisheries.

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## SCHEDULE

Definitions

1. In this Schedule any word or expression to which a meaning has been assigned in the Act shall have that meaning, unless the context indicates otherwise:

**“address”** means the physical address where business is conducted, whether at a home, farm or other premises.

**“contact details”** means the name and surname, cellular telephone number, landline number(s) and where applicable email address of an individual, business or entity.

**“exporter”** means any person that exports macadamias for his own account or, acts as agent on behalf of producers and/or processors or packers of macadamia nuts.

**“geographic region”** means country of origin or destination, or South African province, or a sub-region of a province where otherwise indicated such as the Northern or Southern part of a province, for instance KwaZulu-Natal North Coast.

**“grower”** is synonymous with **“producer”** and means any person engaging, in a

proprietary capacity, in the commercial production of macadamias inclusive of persons or concerns who process and produce macadamia nuts, trades with macadamia nuts, husks, kernels or in-shell or who grows and sells macadamia trees.

**“importer”** means an entity which imports macadamias into South Africa for processing, retail distribution or export and includes persons organising imports on behalf of or in the name of another person.

**“inspector”** means an inspector appointed by the Minister of Agriculture, Forestry and Fisheries in terms of section 21 of the Marketing of Agricultural Products Act, Act no 47 of 1996.

**“kernel”** means the edible seed of the macadamia.

**“macadamias”** means the fruits of the macadamia nut tree species, whether nut in shell or kernel.

**“macadamia industry”** means all participants and role players in the South African macadamia industry.

**“macadamia nursery”** means any person involved in the production of macadamia nut nursery trees, either for own use or sale for commercial gain.

**“Nut in shell consolidator”** means a person or business that receives macadamia nuts from growers for the purpose of preparing and packing for sale as nut in shell. This definition includes persons that buy nut in shell from growers and /or act as agents for the sale of nut in shell. Growers that sell their own production of nut in shell directly to traders are also included in this definition.

**“person”** means an individual, partnership, company, association or any other business unit.

**“processor”** means a person or business that sorts, cleans, cracks and processes macadamias, excluding growers that dehusk and dry their own macadamia nut production on farm.

**“SAMAC”** means Macadamias South Africa Non-Profit Company with registration number 2017/656242/08.

**“The Act”** means the Marketing of Agricultural Products Act, 1996 (Act no. 47 of 1996).

**“written requests”** means requests made by email, documents, letters via post or letters delivered by hand, to the addresses provided to SAMAC at the time of registration as per the relevant Government Gazette Notice relating to registration, or to any other relevant address that SAMAC becomes aware of.

Purpose and aims of this statutory measure and the relation thereof to objectives of the Act

2. The purpose and aims of this statutory measure is to compel the parties set out herein to keep records and render returns to SAMAC. This is necessary to ensure that continuous, timeous and accurate information relating to the products as defined, is available to all role players in the South African macadamia nut industry. Such information is deemed essential for all role players in order for them to make informed decisions. By prescribing the keeping of records with the rendering of returns on an individual basis, import, domestic market, export and production information of macadamias can be processed and disseminated. In cases where information of individual persons is deemed sensitive, only aggregated information will be disseminated in order to keep the information of individuals confidential.

The establishment of the measure will assist in promoting the efficiency of the marketing of macadamia nuts. The viability of the macadamia industry should thus be enhanced. The measure will not be detrimental to the number of employment opportunities or fair labour practice. Any information obtained will be dealt with in a confidential manner and no sensitive client-specific information will be made available to any party without the prior approval of the party whose rights may be affected.

The measure, as set out in this Schedule will be implemented and administered by SAMAC.

Products to which the statutory measure apply

3. This statutory measure shall apply to macadamias, both locally produced and imported, as well as macadamia trees.

Area in which measure shall apply

4. This measure shall apply in the geographical area of the Republic of South Africa.

Records to be kept and returns to be rendered

5. (1) The following parties shall keep records and furnish returns to SAMAC, its inspectors or the South African Police Service as may be required by written requests, with regard to macadamia nuts and macadamia trees:
- (a) Nurseries.
  - (b) Growers.
  - (c) Processors.
  - (d) Nut in shell consolidators.
  - (e) Importers.
  - (f) Exporters.

- (2) Records and returns shall in the case of **nurseries**, contain information with regard to the following:
- (a) Number of trees produced in a given period;
  - (b) Rootstocks;
  - (c) Scion cultivars; and
  - (d) Geographic distribution of tree sales.
- (3) Records and returns shall in the case of **growers**, contain information with regard to the following:
- (a) Number of trees planted;
  - (b) Number of hectares planted;
  - (c) Tree age;
  - (d) Rootstocks;
  - (e) Scion cultivars;
  - (f) Presence or absence of irrigation systems;
  - (g) Crop estimates;
  - (h) Total volume of inshell macadamias and kernel delivered to nut in shell consolidators, processors and exporters; and
  - (i) Contact details of the nut in shell consolidators, processors and exporters where macadamias were delivered to.
- (4) Records and returns shall in the case of **Processors**, contain information with regard to the following:
- (a) Carryover stock from previous seasons;
  - (b) Forecast intake of nut in shell for a given period by geographic region;
  - (c) Actual intake of nut in shell for a given period;
  - (d) Forecast kernel production of various styles for a given period;
  - (e) Kernel stock of various styles not committed for sale for a given period;
  - (f) Nut in shell shipments with corresponding volumes per geographic region for a given period;
  - (g) Kernel shipments with corresponding volumes per geographic region for a given period;
  - (h) Sound kernel production;
  - (i) Details of factors leading to unsound kernel;
  - (j) Nut in shell intake by geographic region;
  - (k) Kernel intake by geographic region;
  - (l) Contact details and address of individuals and/or suppliers of nut in shell and their corresponding total deliveries of nut in shell;
  - (m) The contact details and address of individual growers and / or suppliers of kernel and their corresponding total deliveries of kernel;
  - (n) In the instance where kernel is bought or received from growers, processors, individuals or other parties, contact details and address of such suppliers of kernel, as well as confirmation by means of an affidavit

or warranty that the due levies were paid to SAMAC on the specific consignment of kernel before cracking and processing; and

- (o) In the instance where inshell macadamia is bought or received from entities other than growers, such as processors, nut in shell consolidators, individuals or other parties, contact details and address of such suppliers of inshell macadamias, as well as confirmation by means of an affidavit or warranty that the due levies were paid to SAMAC on the specific consignment of macadamias.

Processors shall be audited annually by an accounting firm registered with a professional body and confirmation from the said firm provided to SAMAC that the nut in shell and kernel intake volumes declared to SAMAC for the previous calendar year, are true and correct. Such confirmations shall include warranties and/or affidavits referred to in sub-clauses 4 (n) and (o) and be submitted to SAMAC before 30 June of each year.

- (5) Records and returns shall in the case of **nut in shell consolidators**, contain information with regard to the following:
  - (a) Carryover stock from previous seasons;
  - (b) Forecast intake of nut in shell for a given period by geographic region;
  - (c) Intake of nut in shell for a given period;
  - (d) Nut in shell shipments with corresponding volumes per geographic region for a given period;
  - (e) Nut in shell stock not committed for sale for a given period;
  - (f) Nut in shell intake by geographic region;
  - (g) Kernel intake by geographic region;
  - (h) Contact details and address of individual growers and / or suppliers of nut in shell and their corresponding total deliveries of nut in shell;
  - (i) Contact details and address of individual growers and / or suppliers of kernel and their corresponding total deliveries of kernel;
  - (j) In the instance where kernel is bought or received from growers, processors, individuals or other any parties, contact details and address of such suppliers of kernel, as well as confirmation by means of an affidavit or warranty that the due levies were paid to SAMAC on the specific consignment of kernel before cracking and processing; and
  - (k) In the instance where inshell macadamias is bought or received from entities other than growers, such as processors, nut in shell consolidators, individuals or other any parties, contact details and address of such suppliers of inshell macadamias, as well as confirmation by means of an affidavit or warranty that the due levies were paid to SAMAC on the specific consignment of macadamias.

Nut in shell consolidators shall be audited annually by an accounting firm registered with a professional body and confirmation from the said firm

provided to SAMAC that the nut in shell and kernel intake volumes declared to SAMAC for the previous calendar year, are true and correct. Such confirmations shall include warranties and/or affidavits referred to in sub-clauses 5 (j) and (k) and be submitted to SAMAC before 30 June of each year.

- (6) Records and returns shall in the case of **importers**, contain information with regard to the following:
  - (a) Volume of nut in shell imported in a given period;
  - (b) Volume of kernel imported in a given period; and
  - (c) Country of origin of imports.
- (7) Records and returns shall in the case of **exporters**, contain information with regard to the following:
  - (a) Volume of nut in shell exported in a given period;
  - (b) Volume of kernel exported in a given period;
  - (c) Country of destination of exports;
  - (d) Contacts details and address of sources of nut in shell obtained for export with the respective corresponding volumes; and
  - (e) Contacts details and address of sources of kernel obtained for export with the respective corresponding volumes.
- (8) The National Department of Agriculture, Forestry and Fisheries or its assignee shall render a copy of all import certificates or furnish the information required by SAMAC contained in such certificates within the period specified in sub-clause (9).
- (9) The Department of Agriculture, Forestry and Fisheries, the Perishable Products Export Control Board or any other assignee of the Department of Agriculture Forestry and Fisheries mandated to carry out export and/or local inspections shall render information relating to specific importers, exporters, processors and nut in shell consolidators and the respective import or export volumes of all macadamia products, including kernel and nut in shell, to SAMAC.
- (10) The records referred to in sub-clauses (2) – (7) shall be rendered, on forms obtainable free of charge from SAMAC, within 20 days after the end of the month in which the returns have been requested, unless a period of greater than 20 days is specified by SAMAC.

Forms shall be submitted,

- (a) when forwarded by post, to –  
SAMAC  
Private Bag X180  
Centurion

0046

- (b) when delivered by hand, be delivered to –  
SAMAC c/o AgriSA Inkwazi Building,  
Block A,  
1249 Embankment Road,  
Zwartkop X7  
Pretoria
- (c) when sent by telefax, be addressed to –  
+27 (0)86 612 9077
- (d) when sent by email, addressed to –  
info@samac.org.za

Failure to comply with the statutory measure in this schedule

6. Upon failure to comply with the statutory measure as set out in this schedule resulting in legal steps to enforce the provisions of the regulations, the specific entity or person not complying to the said measures would be liable for the legal costs, on the scale as between attorney and own client.

Commencement and period of validity

7. This statutory measure shall come into operation on 15 November 2018 and shall lapse 4 years later.