

## DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

## NOTICE 629 OF 2018

MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996  
(ACT No. 47 OF 1996)**ESTABLISHMENT OF STATUTORY MEASURE AND DETERMINATION OF LEVIES  
ON MACADAMIA NUTS**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, acting under sections 13 and 15 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), hereby-

- (a) establish the statutory measure set out in the schedule hereto;
- (b) determine the guideline price for macadamias (recent average domestic growers' selling price, dry nut in shell, 1.5% moisture), as R75.58 per kg.

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:

**“DNIS”** means dry nut in shell at a kernel moisture content at 1.5%.

**“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.

**“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.

**“Nut in shell consolidator”** means a person 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, and act as agents or contractors for dehusking 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 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).

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

2. The purpose and aims of this statutory measure is to provide financial support for the following in the interests of the South African macadamia industry as a whole:
  - (a) Collection, processing and dissemination of reliable production and market information;
  - (b) Production, post-harvest, product and market research;
  - (c) Technology transfer;
  - (d) Determination of quality standards;
  - (e) Stimulation of consumption of macadamia nuts;
  - (f) Liaison with local and international governments, organisations and interested groups;
  - (g) Promotion of co-operation between growers, handlers, processors and other industry role players;

- (h) Promotion of market access including gaining, retaining and optimising markets;
- (i) Facilitation of transformation within the industry;
- (k) Medical and other research to promote the health aspects of macadamia nut consumption;
- (l) Benchmarking and determination of best practice; and
- (m) Determining the impact of theft on the industry;

The measure will not be detrimental to the number of employment opportunities or fair labour practice.

The measure will be administered by Macadamias South Africa Non-Profit Company (SAMAC)

Products to which the statutory measure applies

3. This measure shall apply to macadamia nuts in-shell, kernels and macadamia trees both in the field and in the nursery;

Area in which measure shall apply

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

Imposition of levy

5. A levy is hereby imposed on all inshell macadamia nuts received, from a grower, by a processor or consolidator of nut in shell.

Amount of levy

6. The amount of the levy shall be as follows (excluding VAT):

Period	14 Nov 2018 - 13 Nov 2019	14 Nov 2019 - 13 Nov 2020	14 Nov 2020 - 13 Nov 2021	14 Nov 2021 - 13 Nov 2022
Rate/kg DNIS	R0.50	R0.56	R0.62	R0.68

Persons by whom the levy shall be payable

7. (1) The levy imposed under clause 5 shall –
- (a) be payable by any processor or consolidator of nut in shell that receives inshell macadamias from a grower, regardless of whether such a processor, consolidator of nut in shell or exporter buys the macadamias from the grower or acts as a marketing agent.
  - (b) be a grower's levy, deducted from the grower's returns by the processor, importer, exporter or consolidator of nut in shell.
  - (c) 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.

- (d) be payable by processors, nut in shell consolidators and exporters in the instance where kernel is received from other processors, nut in shell consolidators or exporters and no guarantee is received by means of an affidavit or warranty that a levy has not been paid on the specific consignment. In such instances a levy shall be determined by converting the kilograms of kernel to an inshell basis by dividing the kilograms of kernel by 0.3 and applying the levy as stated in clause 5. This amount shall be deducted and paid over to SAMAC by the processor, nut in shell consolidator or exporter on behalf of the person supplying the kernel, which is equal to the levy as stated in clause 5 for nut in shell at a kernel recovery of 30%.
- (2) It is the responsibility of the grower to ensure that a levy is deducted and paid over to SAMAC, although a processor, nut in shell consolidator, exporter or importer can also be held liable.
- (3) In the instance of a dispute on the definition, classification or responsibility of an entity, the inspector shall make the determination on who is responsible for the payment of the levy.

#### Payment of levy

- 8. (1) Payment of the levy shall be made not later than ninety (90) days following the month end wherein a quantity of macadamias was delivered.
- (2) Payment shall be made by means of a cheque or electronic transfer in favour of SAMAC, and shall –
  - (a) when paid by cheque, be addressed 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 electronically transferred, be paid to the bank account obtainable from SAMAC on request.

Administration of levies

9. The statutory measure shall be administered by SAMAC. Approximately 70% of levy income will be spent on core activities (such as research, information functions and stimulation of demand for macadamias), not more than 10% will be spent on administration of levies and at least 20% on transformation. The levies shall be accounted for in a manner and to the extent acceptable to the Auditor-General, separately from other funds or assets under the control of SAMAC. Annual audited financial statements will be submitted to the National Agricultural Marketing Council and the Auditor-General, with the percentage allocated towards transformation clearly indicated and accompanied by a report stating how the objectives of the levy have been met. Any deficit at the date of termination of this statutory measure shall be for the account of SAMAC. The Minister of Agriculture, Forestry and Fisheries shall decide on the application of any surplus levies at the date of termination of the statutory measure.

Failure to comply with the statutory measure in this schedule

10. 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

11. This statutory measure shall come into operation on 15 November 2018 and will lapse four years later.