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DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. R. 97

01 FEBRUARY 2019

**MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996
(ACT No. 47 OF 1996)****ESTABLISHMENT OF STATUTORY MEASURE: DETERMINATION OF
GUIDELINE PRICES AND LEVIES RELATING TO POTATOES**

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 establish the statutory measure set out in the attached Schedule.

SENZENI ZOKWANA,
Minister of Agriculture, Forestry and Fisheries.

SCHEDULE

Definitions

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

“**Administrator**” means Potatoes South Africa;

“**FOB**” means Free on Board

“**importer**” means a person who imports potatoes for his own account or acts as an agent on a commission basis or on behalf of potato producers, traders or processors;

“**exporter**” means a person who trades potatoes for export for his or her own account, or acts as an agent on a commission basis on behalf of potato producers;

“**NAMC**” means the National Agricultural Marketing Council established under the Act;

“**packaging material**” means packaging material intended to be used for the packing of potatoes, including paper bags, plastic bags and cartons;

“**packaging material importer**” means a person that imports and sells packaging material, and includes an agent acting on behalf of such a person;

“**packaging material manufacturer**” means a person that manufactures and sells packaging material, and includes an agent acting on behalf of such person;

“**PIDT**” means the Potato Industry Development Trust;

“**potatoes**” means table potatoes, seed potatoes, potatoes for processing and potato products;

“**Potatoes South Africa**” means Potatoes South Africa NPC, a non-profit company registered under the Companies Act, No. 71 of 2008;

“**potato producer**” means a person who produces potatoes for export, or for domestic consumption as table potatoes or as potato products, and includes seed potato producers who produces seed potatoes for sale;

“**processor**” means a person who processes potatoes;

“**pre-packer**” means a person that pre-packs potatoes;

“**trader**” means a person who purchases potatoes from a potato producer or any other supplier for trading on the domestic market or for exporting; and

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

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

2. (1) The measure was applied for by the PIDT and is required by the potato industry to fund -
- (a) the development and implementation of appropriate programs to assist emerging black commercial farmers by way of transformation to become commercial potato producers and to extend their access to marketing opportunities;
 - (b) basic as well as applied research, including cultivar evaluation, and the dissemination of all relevant technical information;
 - (c) the gathering, processing, analysing and compiling pertinent industry related information and market statistics, and the dissemination thereof;
 - (d) the development and implementation of strategic marketing development and generic promotional programmes to establish, maintain and expand local and foreign markets; and
 - (e) the expansion of the pool of knowledge and human capital development in the potato industry.
- (2) The measure will further the objectives of the Act, will not prejudice such objectives and will not be detrimental to food security, the number of employment opportunities or fair labour practices.
- (3) The levies collected under this measure will be utilised in accordance with the purposes set out in this notice.
- (4) The PIDT has appointed Potatoes South Africa as administrator to implement and administer the statutory measure.

Employment of statutory levies

3. Levies collected will be used in accordance with the business plan for the imposition and use of the statutory measure submitted by the PIDT to the NAMC, of which -
- (a) at least 20% of the funds collected shall be used for transformation;
 - (b) approximately 70% of the funds collected shall be used for the core activities of the potato industry; and
 - (c) not more than 10% of the funds collected shall be used for administration of the statutory measures.

Products to which statutory measure applies

4. This statutory measure shall apply to potatoes.

Area in which statutory measure applies

5. This statutory measure shall apply within the geographical area of the Republic of South Africa.

Determination of guideline prices

6. The guideline prices are hereby determined as -

- (a) 345.0c/kg for table potatoes;
- (b) 824.0c/kg for seed potatoes;
- (c) 295.0c/kg for potatoes for processing;
- (d) 345.0c/kg for potatoes destined for exports;
- (e) 1211.0c/kg for imported potatoes (FOB).

Amount of levies

7. The amount of the levies payable is as set out in the schedule and is applicable to the following -

- (a) all classes of locally produced potatoes for sale on the domestic market irrespective of the format in which it is marketed;
- (b) all classes of locally produced potatoes intended for the export market irrespective of the format in which it is marketed; and
- (c) all classes of imported potatoes irrespective of usage.

Commodity	Annual levy per kilogram in cent			
	2019/2020	2020/2021	2021/2022	2022/2023
Table potatoes	2.050	2.130	2.210	2.290
Seed potatoes	0.814	0.846	0.878	0.910
Potatoes for processing	0.962	0.999	1.037	1.074
Potatoes for export	2.050	2.130	2.210	2.290
Imported potatoes	1.447	1.504	1.560	1.617

Persons by whom levies are payable

8. (1) The levies set out in clause 7 are payable by -

- (a) a potato producer; on potatoes locally produced and sold, or on potatoes exported; or
 - (b) a potato importer, on all imported potatoes.
- (2) For the purposes of the application of clause 8(1) levies shall only be payable once: Provided that any person who on enquiry by the Administrator claims that the levies has been paid, shall provide sufficient

proof of such a payment to the Administrator, in the absence whereof that person shall be deemed to be liable for payment of the levies.

- (3) The levies shall be paid to the Administrator in accordance with clauses 7 and 9.

Payment of levy

9. (1) For the purpose of determining levies payable by a potato producer in terms of clause 8(1)(a) -

- (a) the levies concerned shall be payable upon the purchase of packaging material from a packaging material manufacturer or packaging material importer;
- (b) the packaging material manufacturer or packaging material importer shall collect the levy by adding the amount thereof to the price of the packaging material, calculated by multiplying the levy amounts set out in clause 7 ("A") by the capacity of the packaging material purchased expressed in kilogram ("B"), multiplied by the quantity of the packaging material purchased ("C") ($A \times B \times C$);
- (c) the packaging material manufacturer or packaging material importer shall provide a return to the Administrator, setting out the names and addresses of the persons who purchased packaging material during the previous calendar month, together with the capacity and quantities of packaging material thus purchased and levies thus raised, within twenty days after the end of that calendar month;
- (d) The Administrator shall upon receipt of a return in terms of paragraph (c) invoice the packaging material manufacturer or packaging material importer for indicating the amount of the levies due, as well as the amount of the commission that the packaging material manufacturer or packaging material importer is entitled to retain upon remittance of that invoice, which retention amount shall not exceed 2% (two percent) of the levies due; and
- (e) the packaging material manufacturer or packaging material importer shall fully pay an invoice referred to in paragraph (d) before or on the seventh day of the month following receipt hereof.
- (2) Any levies raised and collected by the packaging material manufacturer or packaging material importer in terms of sub-clause 9(1) -
- (a) must be kept separate from and does not inherently form part of the price paid for the packaging material;
- (b) must be kept separate from any other funds or assets under the control or possession of the packaging material manufacturer or packaging material importer;

- (c) does not form part of the assets of the packaging material manufacturer or packaging material importer and may not in any other manner be pledged, ceded or otherwise utilised for security or in any manner laid claim to by the creditors of the packaging material manufacturer or packaging material importer; and
 - (d) may only be remitted to the Administrator.
- (3) In the event that packaging material purchased and paid for is destroyed or lost prior to being utilised, the Administrator shall upon the provision of satisfactory evidence refund the applicable amounts directly to the purchaser concerned.
- (4) Nothing in this clause shall detract from the obligation of the producer to pay levies in the event that potatoes are delivered in bulk or by any means other than by utilising packaging material for packing, processing or for sale, or sold or exported, and in such event the levies due shall be paid as follows:
- (a) the processor shall collect the levy by subtracting the amount thereof from the payment due to the potato producer for potatoes delivered to the processor, calculated by multiplying the levy amounts set out in clause 7 ("A"), by the volume delivered expressed in kilogram ("B"). $(A \times B)$;
 - (b) the pre-packer, traders and/or exporters, shall collect the levy by subtracting the amount thereof from the payment due to the potato producer for potatoes delivered to the pre-packer, traders and/or exporters, calculated by multiplying the levy amounts set out in clause 7 ("A"), by the volume delivered expressed in kilogram ("B"). $(A \times B)$;
 - (c) the processors, pre-packers, traders and exporters, shall provide a return to the Administrator, setting out the names and addresses of the persons who delivered potatoes during the previous calendar month, together with the volumes, within twenty days after the end of that calendar month;
 - (d) the Administrator shall upon receipt of a return in terms of paragraph (c), invoice the processors, pre-packers, traders and exporters for indicating the amount of the levies due, as well as the amount of the commission that the processors, pre-packers, traders and exporters is entitled to retain upon remittance of that invoice, which retention amount shall be as per agreement, of the levies due; and
 - (e) the processors, pre-packers, traders and exporters shall fully pay an invoice referred to in paragraph (d) before or on the seventh day of the month following receipt hereof.

- (5) For the purpose of levies payable in terms of clause 8(1)(b) by a potato importer, the levies due shall –
- (a) be calculated by multiplying the levy amounts set out in clause 7 (“A”) by the volume imported, expressed in kilogram (“B”) (**A x B**); and
 - (b) be paid by the potato importer concerned to the Administrator not later than the seventh day of the month following the month of import.
- (6) Payment in terms of this clause must be made –
- (a) by cheque with the beneficiary and other particulars as indicated by the Administrator; or
 - (b) directly into the bank account indicated by the Administrator.
- (7) Interest on levy payments in arrears shall be charged at the prime lending rate then in force, plus 2% (two percent).

Commencement and validity

- 10 The statutory measures shall be implemented on 1 July 2019 and lapse on 30 June 2023.