

## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

### DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

#### NOTICE 382 OF 2021

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

#### LEAF SERVICES

Notice is hereby given that Leaf Services (Pty) Ltd ("the Assignee"), designated as an Assignee in terms of Section 2(3)(a) of the Agricultural Product Standards Act, 1990 (Act 119 of 1990) as amended ("the Act") under Notice no 345 of 2016 for the application of sections 3(1) (a) and (b), 3A(1), 4A(1)(a), 7 and 8 of the Act with regard to grains and grain products destined for sale in the local market, will commence inspections of Affected Parties in line with its mandate from 12 July 2021.

#### 1 Affected Parties

Affected Parties are all food business operators (FBO's) in the grain industry who:

- (a) Store, convey, grade, and sell raw grains reflected in the table below in the Republic of South Africa under any regulation made in terms of the Act; and/or
- (b) Produce, pack, process and sell regulated grain products reflected in the table below in the Republic of South Africa under any regulation made in terms of the Act; and/or
- (c) Import grains or grain products regulated in terms of the Act into the Republic of South Africa.

#### 2 Inspection fees

2.1 An inspection fee is hereby imposed in terms of Section 3(1A) of the Act on all grain and grain products listed in paragraph 2.3 –

- (a) grain sold by or on behalf of the producer thereof;
- (b) grain products processed or converted or caused to be processed or converted, if the grain product is sold by the processor or convertor thereof ; and
- (c) grain in respect of which a silo receipt or any negotiable instrument has been issued if the fee in respect of such grain has not already been paid in terms of sub-paragraph (a).

2.2 The inspection fees shall be valid from 12 July 2021 and will be levied at the rates provided in paragraph 2.3 below until further notice published in the Government Gazette.

2.3 The following inspection fees will be imposed in respect of the grains and grain products listed below:

Grain and grain products	Rate per ton (Rand)	Rate per loaf (cents)
Canola	1,80	
Dry beans	1,80	
Ground nuts	1,80	
Maize	1,80	
Malting barley	1,80	
Rice	1,80	
Sorghum	1,80	
Wheat	1,80	
Soya beans	1,80	
Sunflower seeds	1,80	

Other regulated grain	1,80	
Maize products	4,00	
Wheat products (excl bread)	4,00	
Bread (Loaf)		2,00

- 2.4 All inspection fees exclude Value Added Tax (VAT), which is to be levied and paid according to the relevant legislation from time to time.
- 2.5 The inspection fees payable in terms of paragraph 2.1 read with paragraph 2.3 shall with effect from 12 July 2021 be payable at the first point of sale, as follows –
- Fees payable on the sale of grains (raw products) by or on behalf of a producer, shall be paid by the buyer of the grain.
  - Fees payable on the sale of grain products, other than bread, shall be paid by the processor or converter of the grain product.
  - Fees payable on the sale of bread shall be paid by the baker selling such bread.
  - Fees payable as contemplated in paragraph 2.1(c), shall be paid by the person issuing such silo receipt or other negotiable instrument.
  - Fees payable on imported regulated products shall be paid by the importer of such products.
- 2.6 The amount of the fees payable in terms of paragraphs 2.5(a) and 2.5(b) may be recovered from the producer.
- 2.7 The amount of the fees payable in terms of paragraph 2.5(c) may be recovered from the person to whom such silo receipt or other negotiable instrument is issued.
- 2.8 Inspection fees shall be determined, invoiced, and paid by the persons contemplated in paragraph 2.5, in the following manner:

#### 2.8.1 Registration

- The Leaf Services Customer Web Portal will be utilised for declaration of sales volumes, which is required for calculation of the inspection fees payable by an Affected Party.
- Affected Parties must request access to the Leaf Services web portal by completing an account profile registration on the Leaf Services website at <https://leafservices.co.za/APSA>. Information required during the account profile registration process will include the name and surname of a primary contact person in the Affected Parties' organisation, including the primary contact persons' telephone number and email address.

The Affected party must provide all, and any information requested on the Leaf Services Customer Web Portal, to enable Leaf Services to execute their mandate and issue invoices in respect of inspection fees payable in terms of this Notice.

- Once an access request as outlined in sub-paragraph (a) has been approved by Leaf Services, information regarding the web location and login details necessary to access the Leaf Services Customer Web Portal will be communicated by email to the email address of the primary contact person specified during the account profile registration.

### 2.8.2 Return of sales and imported volumes

Affected Parties shall on a monthly basis declare the volumes of regulated products sold in and/or imported into the Republic of South Africa by completing the Return of Sales and Imports form provided online by the Assignee on the above-mentioned Customer Web Portal. The Return of Sales and Imports must be completed before or on the 7<sup>th</sup> (seventh) day of each month ("the Reporting Month") in respect of sales during the preceding month ("the Accountable Month").

The issue of a silo receipt or other negotiable instrument contemplated in paragraph 2.1(c) will for purposes of this paragraph 2.8 be deemed as a sale of the products recorded thereon.

**Note:** *During March 2021 Leaf Services requested the Competition Commission to determine whether the charging of the fees for its services as assignee mandated under the Act could be in contravention of the Competition Act. The reply from the Competition Commission states that in exercising a statutory function in terms of the APS Act to ensure that the expected standard of quality, safety and health of grain industry products is maintained, which includes collecting sales volumes and charging a fixed fee per product by Leaf Services, will not amount to contravention of the Competition Act if Leaf Services does not share the information with market participants.*

### 2.8.3 Invoicing

The Assignee shall, upon completion of the return in terms of paragraph 2.8.2 by an Affected Party but not later than the 15<sup>th</sup> (fifteenth) day of the Reporting Month, issue and deliver to the Affected Party at its nominated address an invoice reflecting:

- (a) the volume of sales and/or imports declared by the Affected Party in respect of the preceding month
- (b) the fee per unit payable in terms of this notice
- (c) the total amount of the fee payable to the Assignee in respect of the Preceding Month.

Should an Affected Party during any month fail or neglect to declare its sales or imported volumes in respect of the Accountable Month, the fees payable by that Affected Party to the Assignee in respect of the Accountable Month will be calculated based on the average of the last three monthly sales or import volumes declared by the Affected Party: Provided that if the Affected Party has not yet completed returns of sale or import volumes for at least three months, the fees payable to the Assignee in respect of the Accountable Month will be calculated and invoiced on an estimated sales or imports volume.

### 2.8.4 Payment

The invoiced amount of the fees due to the Assignee as per paragraph 2.8.3(c) shall be payable by not later than the 25<sup>th</sup> (twenty-fifth) day of the Reporting Month in the following manner:

- (a) By direct deposit or electronic transfer of funds into the bank account of Leaf Services (Pty) Ltd indicated on the invoice issued in terms of paragraph 2.8.3.
- (b) By delivery of a cheque to Leaf Services (Pty) Ltd at:  
Agri-Hub Building, Block C, 477 Witherite Street, The Willows, Pretoria
- (c) By mail addressed to Leaf Services (Pty) Ltd at:  
Postnet Suite #0051, Private Bag X1, Die Wilgers, 0041

Provided that it is the Affected Party's responsibility to ensure that payment is received by Leaf Services (Pty) Ltd before or on the due date.

### **3 Sanction**

Failure by the Affected Party responsible to pay the inspection fee levied in terms hereof may result in legal steps to enforce the provisions and may render the affected person liable in terms of Section 11 of the Act.

### **4 Inspections**

Inspections will be carried out according to the methodology developed in consultation with role-players in the industry and agreed with the Executive Officer designated in terms of Section 2(1) of the Act, which is available from Leaf Services at [www.leafservices.co.za/report](http://www.leafservices.co.za/report) or at the address provided below, or from the Executive Officer at [mbulahenim@dalrrd.gov.za](mailto:mbulahenim@dalrrd.gov.za).

### **5 Appeal, reasons, review, and assistance**

Attention is drawn to the following:

#### **5.1 Agricultural Products Standards Act, 1990 (the Act)**

In terms of Section 10(1) of the Act, any person whose interests are affected by any decision or direction of the Executive Officer or an Assignee under the Act, may appeal against such decision or direction to the Director-General in the manner prescribed in Section 10(2) and subject to the provisions of Sections 10(3) to 10(9) of the Act.

#### **5.2 Promotion of Administrative Justice Act, 2000 (PAJA)**

5.2.1 In terms of Section 5 of (PAJA), any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for the action may, subject to the further provisions of that section, within 90 days after the date on which that person became aware of the action or might reasonably have been expected to have become aware of the action, request that the administrator concerned furnish written reasons for the action.

5.2.2 A request in terms of Section 5 of PAJA for reasons for an administrative action which materially and adversely affected a person's rights must in terms of Regulation 27(1) of the Regulations on Fair Administrative Procedures issued in terms of PAJA (Notice R1022 of 31 July 2002) as amended ("the Regulations"), be -

- (a) in writing;
- (b) addressed to the administrator concerned; and

- (c) sent to the administrator by post, fax or electronic mail or delivered to the administrator by hand.

5.2.3 The request for reasons must in terms of Regulation 27(3) indicate -

- (a)
  - (i) the administrative action which affected the rights of the person making the request; and
  - (ii) which rights of that person were materially and adversely affected by the administrative action; and
- (b) state -
  - (i) the full name and postal and, if available, electronic mail address of that person; and
  - (ii) any telephone and fax numbers where that person may be contacted.

5.2.4 In terms of section 6 of PAJA, any person may, subject to the further provisions of that section and Section 7 of PAJA, institute proceedings in a court or a tribunal for the judicial review of an administrative action.

5.2.5 In terms of Regulation 27(2) of the Regulations, if an administrator receives an oral request for reasons from a person who cannot write or otherwise needs assistance, the administrator or a person designated by the administrator must give reasonable assistance to that person to submit such request in writing.

## **6 Privacy statement**

Leaf Services (Pty) Ltd is committed to protecting the Affected Parties' privacy and ensuring their Personal Information is used appropriately, transparently, securely and in accordance with applicable laws. Its privacy policy is made available at <https://leafservices.co.za/Privacy>, and is available from the company at the addresses provided below.

## **7 Enquiries**

Any enquiries relating to this notice can be addressed to the Assignee at the contact particulars provided below.

Mr D.M. Botes, Chief Executive Officer, Leaf Services (Pty) Ltd, Agri-hub Building, Block C, 477 Witherite St, Die Wilgers, Pretoria.

Tel: 087 537 1600

Email: [daniel.botes@leafservices.co.za](mailto:daniel.botes@leafservices.co.za)