

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT**NO. R. 2726****11 November 2022****MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996
(ACT No. 47 OF 1996)****ESTABLISHMENT OF STATUTORY MEASURE: RECORDS AND RETURNS
RELATING TO MACADAMIAS DOMESTIC PRODUCTION, PROCESSING, IMPORTS,
EXPORTS OF MACADAMIA NUTS AS WELL AS TREES**

I, Angela Thoko Didiza, Minister of Agriculture, Land Reform and Rural Development 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.

MRS AT DIDIZA, MLP**MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT**

SCHEDULE

Definitions

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

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

“bonded warehouse activity” means activities in relation to imported macadamias which have been wholly exempted from the payment of taxes in the manner envisaged in section 19 of the Customs and Excise Act;

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

“commercial production” means any production undertaken for purposes other than household use or consumption;

“commercial use” means use undertaken for purposes other than household use or consumption;

“consolidator” means a person that receives macadamias from growers for the purpose of preparing and packing for sale such macadamias, and/or any person that buys macadamias from growers and/or acts as an agent for the sale of macadamias and/or acts as an agent or contractor in respect of the dehusking of NIS; and further includes growers that sell macadamias to traders, exporters, wholesalers, retailers, consumers and/or other purchasers (but specifically excludes any bonded warehouse activity);

“Customs and Excise Act” means the Customs and Excise Act, 1964 (Act no. 91 of 1964);

“exporter” means any person that exports macadamias for his own account or, acts as an agent on behalf of producers and/or processors or packers of macadamia in relation to the export of macadamias;

“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 the term “producer” and means any person engaging, in a proprietary capacity, in the commercial production of macadamias inclusive of persons or entities who process, produce or, trade with their own macadamias and/or who grow and/or sell macadamia trees;

“importer” means an entity who imports macadamias into South Africa for any purpose (other than storage and processing in a bonded warehouse activity) and includes persons organizing imports on behalf of or in the name of another person or entity;

“inspector” means an inspector appointed by the Minister of Agriculture, Forestry and Fisheries in terms of section 21 of the Act;

“kernel” means the edible seed of the macadamia;

“levy” has the meaning ascribed thereto in the Act;

“macadamias” means the fruits of the macadamia tree Including but not limited to NIH, NIS 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 commercial use or sale for commercial gain;

“NIH” means nut in husk;

“NIS” means nut in shell;

“NIS industry standard” means notwithstanding the actual form and volume of the applicable macadamias, NIS with a kernel moisture content of 1.5% (determined by way of utilization of prevailing macadamia industry standards, provided such standards are reasonably acceptable to SAMAC);

“person” means any natural or juristic person and includes a partnership, association or statutory body;

“processor” means a person that sorts, cleans cracks and/or processes macadamias, excluding growers that dehusk and dry their own macadamias;

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

“sound kernel” means the edible kernel expressed as a percentage of the total in shell weight;

“statutory measure” has the meaning ascribed thereto in the Act;

“the Act” means the Marketing of Agricultural Products Act, 1996 (Act no. 47 of 1996), as amended;

“unsound kernel” is inedible, defected kernel; and

“written requests” means requests made by email, documents, letters transmitted via post or delivered by hand, to the addresses provided to SAMAC at the time of registration as a member of SAMAC.

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

2. The purpose and aims of this statutory measure are 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 macadamias, is available to macadamia industry stakeholders. Such information is essential for purposes of assisting macadamia industry stakeholders in making informed decisions in relation to the macadamia industry. The obligation to retain certain information and render returns in relation thereto on an individual basis ensures that generic aggregated information in relation to the macadamia industry is capable of being processed and analyzed for the benefit of the macadamia industry by way of utilizing the revenue generated from the collection of levies.

The establishment of this statutory measure is intended to assist in promoting the efficiency of the production and marketing of macadamias. The viability of the macadamia industry will thus be enhanced. The measure will not be detrimental to the number of employment opportunities in the macadamia industry or fair labour practice.

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

Products to which the statutory measure applies

3. This statutory measure shall apply to macadamias, both locally produced and imported (other than storage and processing in a bonded warehouse activity), 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 macadamias and macadamia trees:

- (a) Nurseries;
- (b) Growers;
- (c) Processors;
- (d) Consolidators;
- (e) Importers; and
- (f) Exporters.

(2) Records and returns shall in the case of **nurseries**, contain information with regard to the following:

- (a) Number of trees and cultivars produced in a given period;
- (b) Rootstocks;
- (c) Scion cultivars;
- (d) Geographic distribution of tree sales (including cultivar indication);
- (e) Province of the nursery;
- (f) Number of exported trees and cultivars; and
- (g) Name of country exported to.

(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 and crop produced previous year (NIS industry standard);
- h) Total volume of NIS, NIH and kernel delivered to consolidators, processors, importers and exporters;
- i) The location of the properties relating to the information from which the information contained in (a) to (h) above is derived (inclusive of GPS coordinates); and
- j) Contact details of the consolidators, processors, importers and exporters to whom macadamias are delivered (inclusive of the addresses).

- (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 NIS for a given period by geographic region;
 - c) Actual intake of NIS 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) NIS 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) Soundkernel production;
 - i) Details of factors leading to unsound kernel;
 - j) NIS intake by geographic region;
 - k) Kernel intake by geographic region;
 - l) Contact details, SAMAC growers codes and address of individuals and/or suppliers of NIS and their corresponding total deliveries of NIS;
 - 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 any other parties, contact details and address of such suppliers of kernel, as well as confirmation by means of an affidavit or warranty that the levies due to SAMAC were paid to SAMAC on the specific consignment of kernel; and
 - o) In the instance where NIS is bought or received from entities other than growers, such as processors, consolidators, individuals or any other parties, contact details and address of such suppliers of NIS as well as confirmation by means of an affidavit or warranty that the levies due to SAMAC were paid to SAMAC in relation to the specific consignment of NIS.
- (5) Records and returns shall in the case of consolidators, contain information with regard to the following:
- a) Carryover stock from previous seasons;

- b) Forecast intake of NIS for a given period by geographic region;
 - c) Intake of NIS macadamias for a given period;
 - d) NIS shipments with corresponding volumes per geographic region for a given period;
 - e) NIS not committed for sale for a given period;
 - f) NIS intake by geographic region;
 - g) Kernel intake by geographic region;
 - h) Contact details and addresses of individual growers and / or suppliers of NIS and their corresponding total deliveries of NIS;
 - 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 levies due to SAMAC in respect of the specific consignment of kernel were paid to SAMAC; and
 - k) In the instance where NIS are bought or received from entities other than growers, such as processors, consolidators, individuals or other parties, contact details and addresses of such suppliers of NIS, as well as confirmation by means of an affidavit or warranty that the levies to SAMAC were paid to SAMAC.
- (6) Records and returns shall in the case of **importers**, contain information with regard to the following:
- a) Volume of NIS imported in a given period;
 - b) Volume of kernel imported in a given period; and
 - c) Country of origin of imports and bonded imports.
- (7) Records and returns shall in the case of **exporters**, contain information with regard to the following:
- a) Volume of NIS 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 NIS 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 Department of Agriculture, Land Reform and Rural Development 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, Land Reform and Rural Development, the Perishable Products Export Control Board or any other assignee of the Department of Agriculture, Land Reform and Rural Development mandated to carry out export and/or local inspections shall render information relating to specific importers, exporters, processors and 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 verified annually by an accounting firm registered with a professional body, who shall be required to provide confirmation that all information (inclusive of the NIH, NIS and kernel intake volumes provided to SAMAC) in relation to the previous year, are true, accurate and correct. Such confirmation shall be submitted to SAMAC before 30 June of each year. The report compiled by the accounting firm shall comply with International Standard on Related Services ISRS 4400 – Engagements to Perform Agreed-Upon Procedures and will include all the information required set out above and such reasonable directions imposed by SAMAC.
- (11) Forms shall be submitted,
- a) When sent by email, addressed to –
info@samac.org.za
 - b) when forwarded by post, to –
SAMAC

Suite #431
Private Bag X1
Jansen Park
1462

- (c) when delivered by hand, be delivered to –
SAMAC
Unit 15, Benvista Office Park
Edgar Road
Jansen Park
1462

Failure to comply with the statutory measures in this schedule

6. Upon a failure by any person to comply with the statutory measures as set out herein resulting in legal action being implemented by SAMAC and/or any other duly authorised person for purpose of enforcing compliance with the provisions of this statutory measures, such persons shall be liable for the legal costs so incurred by SAMAC and/or any other duly authorised person, on the scale as between attorney and own client.

Commencement and period of validity

7. This statutory measure shall come into operation on the date of publication and will lapse 28 February 2027.