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DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

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AGRICULTURAL PRODUCT STANDARDS ACT, 1990
(ACT No. 119 OF 1990)

**REGULATIONS RELATING TO THE PROTECTION OF GEOGRAPHICAL INDICATIONS AND
DESIGNATIONS OF ORIGIN USED ON AGRICULTURAL PRODUCTS INTENDED FOR SALE
IN THE REPUBLIC OF SOUTH AFRICA**

The Minister of Agriculture, Land Reform and Rural Development has under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) made the regulations in the Schedule.



Mrs A.T. Didiza
Minister of Agriculture, Land Reform and Rural Development

SCHEDULE

Contents	Regulation
Definitions	1
Scope of regulations	2
Prohibition on the use of registered geographical indications and designations of origin	3
Application for registration as a South African geographical indication or South African designation of origin	4
Notification to use a registered South African geographical indication or South African designation of origin by individual producers and groups of producers originating from the same defined geographical area	5
Application for registration as a foreign geographical indication or a foreign designation of origin	6
Registration of foreign geographical indications and foreign designations of origin that form part of international agreements	7
Date of application for registration and priority	8
Processing of applications received and verification of information	9
Notice of registration and invitation for objections	10
Objection to the registration	11
Rejection of application for registration	12
Registration	13
Keeping of a Register	14
Application to amend the product specifications	15
Cancellation of registration	16
Cancellation of use of a registered South African geographical indication or South African designation of origin by individual producers and groups of producers originating from the same defined geographical area	17
Use of logos, designations and acronyms	18
Labelling of foodstuffs using agricultural products as ingredients that enjoy protection as registered geographical indications and designations of origin	19
Agricultural products which fail to meet the product specifications	20
Inspection of producers and groups of producers and trade control of registered geographical indications and designations of origin	21
Offences and penalties	22
Commencement	23
Repeal	24

Definitions

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

"agricultural product" means any primary or processed product regulated in terms of sections 3(1) and 15 of the Act, but does not include a liquor product as defined under the Liquor Products Act, 1989 (Act No. 60 of 1989);

"assignee" means a person, undertaking, body, institution, association or board designated as such under section 2(3)(a) of the Act;

"certification body" means, where used in relation to foreign geographical indications and foreign designations of origin, a body or organisation in the foreign country concerned which is accredited in accordance with international standards (e.g. ISO/IEC Guide 65 - General requirements for bodies operating product certification systems; etc.) and that is able to certify that the provisions of the product specifications of a registered foreign GI or foreign designation of origin are complied with;

"competent authority" means a specific Government department or other entity designated by such Government department in a foreign country that is responsible for the registration and protection of geographical indications and designations of origin;

"days" means calendar days;

"Department" means Department as defined in section 1 of the Act;

"designation of origin" means the name that identifies an agricultural product –

- (a) as originating in a specific region or place (locality), or in exceptional cases a specific country;
- (b) whose specific quality or other characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and
- (c) of which all the production steps take place in the defined geographical area.

"Executive Officer" means the officer designated under section 2(1) of the Act;

"foreign designation of origin" means the name that identifies an agricultural product intended for sale on the local market as originating in a country other than the Republic of South Africa;

"foreign geographical indication" or "foreign GI" means the name that identifies an agricultural product intended for sale on the local market as originating in a country other than the Republic of South Africa;

"generic" means that the name of an agricultural product which, although it relates to the territory, region or place where the agricultural product concerned was originally produced or marketed, has become the common or general name used for such agricultural product in the Republic of South Africa (e.g. *French fried potatoes, Brussels sprouts, etc.*);

"geographical indication" (GI) means the name that identifies an agricultural product –

- (a) as originating in a specific region or place (locality), or in exceptional cases a specific country;
- (b) whose specific quality or other characteristics are essentially or exclusively due to its geographical origin; and
- (c) of which at least one of the production steps takes place in the defined geographical area;

"group" means any association, body or entity, irrespective of its legal form, mainly composed of producers working with the same agricultural product for which protection is sought;

"homonymous" means a word or name or an indication that has the same spelling or sounds the same as a registered geographical indication or a registered designation of origin;

"international agreement" means any bilateral or multilateral treaty, convention, or agreement to which the Republic of South Africa is a party/ signatory, and any arrangement between the Republic of South Africa and another country, concerning the protection of geographical indications or designations of origin;

"processing" means that the agricultural product concerned have been subjected to a series of actions which changes its original state;

"producer" means a person who produces, processes or prepares agricultural products in a defined geographical area as well as exercises control over the standards of production and minimum product specifications;

"production step" means production, processing or preparation;

"Register" means an electronic record of registered geographical indications and registered designations of origin established in terms of regulation 14;

"registered foreign designation of origin" means a foreign designation of origin, including a designation of origin that forms part of an international agreement, that has been registered in terms of these regulations by entering it in a Register;

"registered foreign geographical indication" or "registered foreign GI" means a foreign geographical indication, including a geographical indication that forms part of an international agreement, that has been registered in terms of these regulations by entering it in a Register;

"registered designation of origin" means a South African or foreign designation of origin that has been registered in terms of these regulations by entering it in a Register;

"registered geographical indication" or "registered GI" means a South African or foreign geographical indication that has been registered in terms of these regulations by entering it in a Register;

"registered South African designation of origin" means a South African designation of origin that has been registered in terms of these regulations by entering it in a Register;

"registered South African geographical indication" or "registered South African GI" means a South African geographical indication that has been registered in terms of these regulations by entering it in a Register;

"South African designation of origin" means a designation of origin that identifies an agricultural product as originating in the Republic of South Africa;

"South African geographical indication" or "South African GI" means a geographical indication that identifies an agricultural product as originating in the Republic of South Africa;

"the Act" means the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990); and

"trade mark" means a trade mark as defined by the Trade Marks Act, 1993 (Act No. 194 of 1993), and in the context of these regulations also includes a registered trade mark, certification trade mark and a collective trade mark as defined in the same Act.

Scope of regulations

2. These regulations shall --

- (a) apply to the use of registered geographical indications and registered designations of origin on agricultural products as defined in regulation 1 only, and that are intended for sale in the Republic of South Africa; and
- (b) shall give effect to international agreements regarding the protection of foreign geographical indications and foreign designations of origin in the Republic of South Africa.

Prohibition on the use of registered geographical indications and designations of origin

3. (1) Any direct or indirect commercial use of a registered GI or designation of origin in the Republic of South Africa is prohibited on --

- (a) similar agricultural products which are not covered by the registration; and
 - (b) dissimilar agricultural products where such use exploits the reputation of the protected name.
- (2) The prohibition referred to in sub-regulation (1) shall --

- (a) apply in particular where --
 - (i) the registered name is imitated or alluded to;
 - (ii) the registered name is translated;
 - (iii) the registered name is accompanied by words or expressions such as "kind", "type", "style", "imitation", "method", "as produced in", or any similar words or expressions: Provided that the use of these words or expressions together with the registered name shall be permissible when specifically allowed for in an international agreement; and
 - (iv) the agricultural product protected by a registered GI or registered designation of origin is used as an ingredient in the manufacture of another foodstuff, unless the conditions in regulation 19 have been met; and
- (b) also apply to --
 - (i) any false or misleading indication or depiction as to the agricultural product's true origin, provenance, manufacturing process, nature or essential characteristics on a container, an outer container, a notice board or in an advertisement thereof;
 - (ii) any illicit use of a specific or unique shape of the agricultural product referred to in regulation 4(3)(b);
 - (iii) any use of a container or packaging which could create a false impression regarding the origin of the agricultural product;
 - (iv) any illicit use of a GI logo or designation of origin logo;
 - (v) any illicit use of the designation "Protected Geographical Indication" or "Registered Geographical Indication" or "Republic of South Africa Geographical Indication" or "South African Geographical Indication", or the corresponding acronym "PGI" or "RGI" or "RSA-GI", or "SA-GI", or any similar designations or acronyms; and
 - (vi) any illicit use of the designation "Protected Designation of Origin" or "Registered Designation of Origin" or "Republic of South Africa Designation of Origin" or "South African Designation of Origin", or the corresponding acronym "PDO" or "RDO" or "RSA-DO", or "SA-DO", or any similar designations or acronyms.

(3) The Executive Officer may grant written exemption, either entirely or partially, from the provisions of sub-regulation (2) on such conditions as he or she may deem necessary.

Application for registration as a South African geographical indication or a South African designation of origin

4. (1) An application for registration as a South African GI or a South African designation of origin from within the Republic of South Africa shall be submitted electronically to the Executive Officer and at least in English by either a producer or group of producers: Provided that an application for registration shall not be considered in instances where the proposed name --

- (a) is identical to an existing registered GI or registered designation of origin for the same agricultural product originating from the same or similar geographical origin;
- (b) falsely communicates to the consumer that the agricultural product concerned originates from a specific region, place or locality although its quality, reputation or

other characteristic is attributable to another region, place or locality from which it truly originates;

- (c) is generic and cannot identify the place or locality of production and given quality, reputation or other characteristics attributable to the place or locality of production: Provided that account shall be taken of all relevant factors, and in particular the opinion of producers and consumers, especially those in the region from which the name originates, when deciding whether a name has become generic or not;
- (d) is identical to a customary name of a plant variety or an animal breed existing in the Republic of South Africa and is likely to mislead the consumer as to the true origin of the agricultural product;
- (e) is wholly or partially homonymous with an existing registered GI or registered designation of origin and is likely to mislead consumers: Provided that the Executive Officer may consider the registration of a homonymous name as a GI or designation of origin by taking into account the need to ensure --
 - (i) the equitable treatment of the producers of the agricultural product(s) concerned to which the GI or designation of origin relates;
 - (ii) that there is a clear distinction between the use of the homonymous name registered subsequently and the use of the name already entered in the Register; and
 - (iii) that consumers are not misled about the true origin of the agricultural product concerned;
- (f) is identical or similar to the name of a trade mark used in the Republic of South Africa on the same or similar agricultural product(s): Provided that the Executive Officer may register a GI or designation of origin that is identical or similar to a trade mark if --
 - (i) the owner of the trade mark has consented to its registration as a GI or designation of origin; or
 - (ii) he or she has considered that the proposed GI or designation of origin may co-exist with the trade mark, taking into account at least the following factors:
 - (aa) the proposed GI or designation of origin's history of use in good faith in the Republic of South Africa; and
 - (bb) the legitimate interests of the owner of the trade mark and of third parties; and
- (g) is intended to be used in translation or is accompanied by words or expressions such as "kind", "type", "style", "imitation", "method", "as produced in", or any similar words or expressions.

(2) An application referred to in sub-regulation (1) shall at least include the information specified below:

- (a) The following information regarding the applicant or applicant group:
 - (i) Name of the producer or group of producers and contact details (i.e. physical address, e-mail address and cellular phone/telephone number).
 - (ii) In the case of a group of producers, the composition of the group.

- (iii) Details about the producer or group of producers' business interests in the defined geographical area.
 - (b) The name of the proposed GI or designation of origin to be registered: Provided that a translation of the proposed GI or designation of origin into English shall be provided if in a language other than English.
 - (c) Proof that the proposed GI or designation of origin --
 - (i) is not a generic name;
 - (ii) does not correspond with the customary name of a plant variety or an animal breed in the Republic of South Africa that is likely to mislead the consumer as to the true origin of the agricultural product; and
 - (iii) is not identical or similar to the name of a trade mark used in the Republic of South Africa on the same or similar agricultural products: Provided that if the producer or group of producers has obtained prior written consent from the owner of the trade mark for its co-existence with a GI or designation of origin on the same or similar agricultural products, the necessary proof shall be included in the application.
 - (d) The following specifications regarding the agricultural product:
 - (i) The type of agricultural product.
 - (ii) A description of the product's main physical, chemical, microbiological and organoleptic (where applicable) characteristics: Provided that existing quality or compositional requirements prescribed in the regulations published under the Act for the agricultural product concerned shall be taken into consideration at all times.
 - (iii) A description of the production process/ method, and any processing or preparation that takes place in the defined geographical area.
 - (iv) Proof that the agricultural product originates in the geographical area which shall include the history of the product and its traceability.
 - (e) A definition of the geographical area.
 - (f) Details demonstrating --
 - (i) the link between the quality or characteristics of the agricultural product and the geographical environment; or
 - (ii) where appropriate, the link between a given quality, the reputation or other characteristics of the agricultural product and its geographical origin.
- (3) information: An application referred to in sub-regulation (1) may in addition also include the following information:
- (a) Specific elements about the labelling or rules regarding the use of the proposed GI or designation of origin: Provided that the existing labelling requirements and restrictions prescribed in the regulations published under the Act for the agricultural product concerned shall still be complied with.
 - (b) A description of any specific or unique shape of the agricultural product concerned.
 - (c) Specific elements of the packaging, where the applicant or applicant group is able to justify that the packaging is necessary in order to ensure product quality, as well

as to guarantee traceability or control in the defined geographical area.

(4) The producer or group of producers applying for registration as a South African GI or South African designation of origin shall provide a summary of the critical elements of control (i.e. minimum product specifications and any other information deemed necessary) that will be used by the assignee designated for the agricultural product(s) concerned to verify compliance during inspections.

(5) A joint application for registration as a GI or designation of origin for the same agricultural product may be submitted to the Executive Officer by one or more producers on an individual basis, or by a single group or several groups of producers in instances where the proposed name designates a trans-border geographical area. (E.g. 'Kalahari Lamb' where the Kalahari covers parts of the Republic of South Africa, Namibia and Botswana)

(6) An application for the registration of the proposed name as a trans-border GI or trans-border designation of origin referred to in sub-regulation (5) shall only be considered by the Executive Officer if the following conditions have been met:

- (a) The minimum product specifications for the use of the proposed name have been negotiated and agreed upon between the Department and the competent authority(ies) in the trans-border country(ies) concerned.
- (b) The Department has obtained the necessary proof that the name for which registration is requested, is registered, in use and protected in the trans-border country(ies) concerned.

Notification to use a registered South African geographical indication or South African designation of origin by individual producers and groups of producers originating from the same defined geographical area

5. A registered South African GI or South African designation of origin may be used by individual producers and groups of producers originating from the same defined geographical area within the Republic of South Africa: Provided that --

- (a) the individual producers and groups of producers shall notify the Executive Officer and the assignee designated for the agricultural product(s) concerned in writing at least sixty (60) days in advance that they intend to use a registered South African GI or South African designation of origin;
- (b) the assignee designated for the agricultural product(s) concerned shall visit the individual producers and groups of producers within the sixty (60) days period specified in paragraph (a) to confirm that they meet the minimum product specifications specified in the Annexure applicable to the registered South African GI or South African designation of origin concerned: Provided further that the fee(s) determined by the assignee concerned for such visit (inspection) shall be payable by the producers or groups of producers concerned; and
- (c) the Executive Officer shall keep a record of all the individual producers and groups of producers using the registered South African GI or South African designation of origin concerned, and the record shall be open for inspection to the public on the Department's website.

Application for registration as a foreign geographical indication or foreign designation of origin

6. (1) An application for registration as a foreign GI or a foreign designation of origin, excluding foreign GIs and foreign designations of origin that form part of international agreements, by a producer or by a group of producers from outside the Republic of South Africa shall be submitted electronically to the Executive Officer and at least in English via the competent authority in the country concerned: Provided that an application for registration shall not be considered in instances where the proposed name --

- (a) is not protected, or has ceased to be protected or has fallen into disuse in its country of origin;

- (b) is identical to an existing registered South African GI or South African designation of origin for the same agricultural product;
- (c) is generic and cannot identify the place of production and given quality, reputation or other characteristics attributable to the place of production: Provided that the Department shall consult with the competent authority in the country concerned to establish if the proposed name has become generic or not in that country;
- (d) is identical to a customary name of a plant variety or an animal breed existing in the Republic of South Africa and is likely to mislead the consumer as to the true origin of the agricultural product;
- (e) is wholly or partially homonymous with an existing registered GI or a registered designation of origin and is likely to mislead consumers: Provided that the Department shall consult with the competent authority in the country concerned to establish if the Executive Officer may consider the registration of a homonymous name as a foreign GI or designation of origin;
- (f) is identical or similar to the name of a trade mark used in the Republic of South Africa on the same or similar agricultural product(s): Provided that the Department-
 - (i) shall consult with the competent authority in the country concerned to establish if the applicant or applicant group has obtained written consent from the South African owner of the trade mark to register the proposed name as a GI or designation of origin; and
 - (ii) may also consult the South African owner of the trade mark to establish if they have given written consent for its co-existence with the proposed name as a GI or designation of origin; or
- (g) is intended to be used in translation or is accompanied by words or expressions such as "kind", "type", "style", "imitation", "method", "as produced in", or any similar words or expressions.

(2) An application referred to in sub-regulation (1) shall include at least the following information:

- (a) The same information prescribed in regulation 4(2)(a) to (f).
- (b) Proof that the GI or designation of origin is still in use and is protected in the country of origin.
- (c) If nominated in the foreign country concerned, the name and contact details of the certification body that verifies compliance with the provisions of the product specifications: Provided that the applicant or applicant group shall inform the Executive Officer in writing whenever the nominated certification body changes.
- (d) If in use, an example of the GI logo or designation of origin logo, designation or acronym that will appear with the geographical indication or designation of origin -
 - (i) on the container or outer container of the agricultural product; or
 - (ii) in an advertisement related to the agricultural product concerned.

(3) A joint application for registration as a foreign GI or foreign designation of origin for the same agricultural product may be submitted to the Executive Officer by one or more producers on an individual basis, or by a single group or several groups of producers, in instances where the proposed name designates a trans-border geographical area.

(4) An application for the registration of the proposed trans-border name as a foreign GI or foreign designation of origin shall only be considered by the Executive Officer if the following conditions have been met:

- (a) The Department has been provided with the necessary proof that the minimum product specifications for the use of the proposed name have been negotiated and agreed upon between the competent authority(ies) in the trans-border country(ies) concerned.
- (b) The Department has been provided with the necessary proof that the name for which registration is requested, is also registered, in use and protected in the trans-border country(ies) concerned.

Registration of foreign geographical indications and foreign designations of origin that form part of international agreements

7. (1) Foreign GIs and foreign designations of origin that form part of international agreements and which fall within the scope of these regulations shall --

- (a) not be subject to the procedure for application for registration as a foreign GI or foreign designation of origin set out in regulation 6; and
- (b) be entered in a Register as set out in regulation 13(2): Provided that where necessary, the Executive Officer may request the competent authority in the country concerned to furnish him or her with additional information required for the Register as set out in regulation 14(2).

(2) The competent authority in the country concerned shall inform the Executive Officer in writing and within reasonable time of any change in status of a registered foreign GI or foreign designation of origin that forms part of an international agreement.

(3) Any addition of a name to the list of registered foreign GIs or foreign designations of origin that form part of an international agreement, and which fall within the scope of these regulations shall be done in accordance with the procedure provided for in such international agreement, or as otherwise mutually agreed between the Republic of South Africa and the foreign country concerned.

Date of application for registration and priority

8. (1) In terms of regulation 4, the date of application for the registration as a South African GI or South African designation of origin by a producer or group of producers shall be regarded as the date upon which the Executive Officer receives the first application.

(2) In terms of regulation 6, the date of application for registration as a foreign GI or foreign designation of origin, excluding foreign GIs and foreign designations of origin that form part of international agreements, shall be regarded as the date upon which the Executive Officer receives the application

(3) The first application received by the Executive Officer for the registration of a South African GI, a South African designation of origin, a foreign GI or a foreign designation of origin, excluding foreign GIs and foreign designations of origin that form part of international agreements, shall have priority over any subsequent application for registration of an identical GI or designation of origin --

- (a) in respect of the same agricultural product; and
- (b) having the same or similar geographical origin.

Processing of applications received and verification of information

9. (1) Upon receipt of an application for registration as either a South African GI, South African designation of origin, foreign GI or foreign designation of origin, excluding foreign GIs and foreign

designations of origin that form part of international agreements, the Executive Officer shall within a period not exceeding sixty (60) days from the date of application evaluate the information submitted in terms of regulation 4(2) or 6(2), as the case may be, to determine whether the following conditions have been met:

- (a) All the required information has been included in the application.
 - (b) The proposed GI or designation of origin is not excluded from registration by virtue of the restrictions set out in regulation 4(1) or 6(1) respectively.
 - (c) The proposed GI meets the definition for 'geographical indication' in regulation 1.
 - (d) The proposed designation of origin meets the definition for 'designation of origin' in regulation 1.
 - (e) The producer or group of producers that applied is carrying on an activity in the geographical area specified in the application with respect to the agricultural product so specified.
- (2) The Executive Officer may --
- (a) correct any error of translation, or any obvious spelling error observed in the application filed with him or her, and shall notify the producer or group of producers that applied in writing to remedy the same;
 - (b) where deemed necessary, request the producer or group of producers that applied in writing to submit additional information: Provided that any request and subsequent submission shall be done within reasonable time and the process completed within the sixty (60) days period specified in sub-regulation (1);
 - (c) in the case where an application for registration as a South African GI or a South African designation of origin was received --
 - (i) visit the producer or group of producers in the geographical area concerned to confirm that the information submitted is true and complete within the period specified in sub-regulation (1); and
 - (ii) request the Assignee designated for the agricultural product concerned to accompany him or her on the visit referred to in sub-paragraph (i); and
 - (d) consult persons with specialised knowledge and experience about any matter relating to the application received within the period specified in sub-regulation (1).

Notice of registration and invitation for objections

10. (1) Once the Executive Officer is satisfied that all the conditions of regulation 9(1) have been met, where necessary the additional information requested in regulation 9(2)(b) have been submitted, and that the information submitted is true and complete, he or she shall publish a Notice in the Government Gazette to --

- (a) inform all interested parties of his or her intention to register the proposed GI or designation of origin;
 - (b) inform all interested parties that information regarding the most important elements of the product specifications and its linkage to the geographical area concerned are available on request; and
 - (c) invite any written objections to the proposed registration of the GI or designation of origin.
- (2) The time allowed for objections referred to in sub-regulation 1(c) shall not exceed a period

of sixty (60) days from the date of publication of such Notice in the Government Gazette: Provided that any interested party may request the Executive Officer in writing, which shall be duly motivated, to consider an extension of the time allowed for a period not exceeding thirty (30) days.

Objection to the registration

11. (1) Any producer, group of producers or other person asserting a legitimate interest in the proposed GI or designation of origin may, within the period allowed for under regulation 10(2), give written notice of an objection to the registration on any of the following grounds:

- (a) The proposed GI does not meet the definition for 'geographical indication' in regulation 1.
- (b) The proposed designation of origin does not meet the definition for 'designation of origin' in regulation 1.
- (c) The proposed GI or designation of origin is a generic name.
- (d) The proposed minimum product specifications are inadequate or impractical for the defined geographical area concerned.
- (e) The proposed name would conflict with a trade mark, or a wholly or partially homonymous name in use.

(2) Any grounds for objection referred to in sub-regulation (1) shall be accompanied by the necessary scientific or any other supporting evidence.

(3) The Executive Officer shall --

- (a) upon receipt of the objection, inform the applicant or applicant group in writing who in turn shall, within a period not exceeding thirty (30) days, furnish the Executive Officer with a counter-statement of the grounds on which a producer or group of producers relies for the application;
- (b) upon receipt of the counter-statement referred to in paragraph (a) furnish the objector with a copy thereof; and
- (c) if so requested, give both the producer or group of producers that applied and the objector the opportunity to be heard.

(4) If deemed necessary, the Executive Officer may consult persons with specialised knowledge and experience about any matter relating to the objection received to the registration of the proposed name.

(5) The Executive Officer shall, after considering all information, counter-statements, arguments and any other relevant information presented to him or her, take a decision within a period not exceeding thirty (30) days whether to reject or register the proposed GI or designation of origin.

Rejection of application for registration

12. The Executive Officer shall reject an application for registration as a South African GI, South African designation of origin, foreign GI or foreign designation of origin, excluding foreign GIs and foreign designations of origin that form part of international agreements, if --

- (a) the additional information requested in terms of regulation 9(2)(b) was not submitted, or only submitted after the sixty (60) days period had lapsed;
- (b) no counter-statement was received within the prescribed period referred to in regulation 11(3)(a); or

- (c) the application for registration has been opposed and the objection has not been resolved in favour of the producer or group of producers that applied.

Registration

13. (1) The Executive Officer shall register a South African GI, South African designation of origin, foreign GI or foreign designation of origin, excluding foreign GIs and foreign designations of origin that form part of international agreements, –

- (a) if the application for registration has not been opposed within the period allowed for under regulation 10(2); or
- (b) if the application for registration has been opposed, but the objection has been resolved in favour of the producer or group of producers that applied; and
- (c) by entering the name in a Register.

(2) Foreign GIs and foreign designations of origin that form part of international agreements shall be registered by the Executive Officer by entering such names in a Register.

(3) Once a GI or designation of origin has been registered in accordance with sub-regulation (1) or (2), the Executive Officer shall –

- (a) in the case of a South African GI or South African designation of origin, inform the producer or group of producers that applied in writing of the registration; or
- (b) in the case of a foreign GI or foreign designation of origin, excluding a foreign GI and foreign designation of origin that forms part of an international agreement, inform the competent authority in writing of the registration; and
- (c) publish a Notice in the Government Gazette of such registration.

Keeping of a Register

14. (1) The Executive Officer shall establish and maintain a Register of all South African GIs, South African designations of origin, foreign GIs and foreign designations of origin, including foreign GIs and foreign designations of origin that form part of international agreements, registered by him or her in terms of regulation 13.

(2) The Register shall contain at least the following information:

- (a) In the case of all registered South African GIs, South African designations of origin, foreign GIs and foreign designations of origin, excluding foreign GIs and foreign designations of origin that form part of international agreements:
 - (i) The name of the registered GI or designation of origin.
 - (ii) The name of the producer or group of producers for whom the GI or designation of origin has been registered first.
 - (iii) The type of agricultural product.
 - (iv) The product specifications or a summary of the critical elements of control (i.e. minimum product specifications and any other information deemed necessary) that will be used to verify compliance during inspections.
 - (v) The name of the country of origin.
 - (vi) The name of the assignee designated for the agricultural product(s) concerned who will verify compliance in the case of a registered South

African GI and South African designation of origin.

- (vii) The date of registration.
- (b) In the case of registered foreign GIs and designations of origin that form part of international agreements:
 - (i) The name of the registered GI or designation of origin.
 - (ii) The type of agricultural product.
 - (iii) The product specifications or a summary of the critical elements of control (i.e. minimum product specifications and any other information deemed necessary).
 - (iv) The name of the country of origin.
 - (v) The date of registration.
- (3) The Register shall be open for inspection to the public on the Department's website.
- (4) The Executive Officer may correct any obvious error in, or omission from, the Register.

Application to amend the product specifications

15. (1) Any producer or group of producers submitting an application to amend the product specifications, excluding the information referred to in sub-regulation (4), related to the registered GI or designation of origin concerned shall follow the same procedure as described in these regulations for application to register a GI or designation of origin.

(2) Any application to amend the product specifications of a registered foreign GI or foreign designation of origin that forms part of an international agreement shall be done in accordance with the procedure provided for in such international agreement, or as otherwise mutually agreed between the Republic of South Africa and the country concerned.

(3) The existing quality or compositional requirements prescribed in the regulations published under the Act for the agricultural product concerned shall be taken into consideration at all times.

(4) Applications from a producer or group of producers to amend the following information related to the registered GI or designation of origin concerned shall not be subject to the procedure referred to in sub-regulation (1):

- (a) If applicable, the nomination of a new certification body in the case of registered foreign GIs and foreign designations of origin.
- (b) Any labelling and packaging changes: Provided that the existing labelling requirements and restrictions, as well as the packaging requirements prescribed in the regulations published under the Act for the agricultural product concerned shall still be complied with.

(5) Once written confirmation has been received from the Executive Officer that the proposed amendment to the product specifications has been accepted and that the Register was amended, the producer or group of producers shall within reasonable time amend their product specifications accordingly and ensure that the amendment is implemented.

(6) The Executive Officer shall, in the case of a registered South African GI and South African designation of origin, inform the assignee designated for the agricultural product concerned of any changes in the status of the product specifications or any labelling and packaging changes.

Cancellation of registration

16. (1) The Executive Officer shall cancel a registered GI or designation of origin in the following instances:

- (a) On request of the producer or group of producers for whom the name was registered and where the registered GI or designation of origin is no longer used.
- (b) If it is established during inspections referred to in regulation 21(1) that compliance with the product specifications of the registered GI or designation of origin is no longer ensured by the producer or group of producers for whom the name was registered.
- (c) If the Executive Officer was informed by the competent authority in the country concerned that a foreign GI or foreign designation of origin, including a foreign GI and foreign designation of origin that forms part of an international agreement, is no longer protected, or has ceased to be protected, or has fallen into disuse in its country of origin.

(2) (a) The Executive Officer shall, before cancelling a registered GI or designation of origin or use of a registered South African geographical indication or designation of origin as contemplated in sub-regulation (1)(b) and regulation 17(1)(c) --

- (i) inform the producer or group of producers concerned of his or her intention to cancel; and
- (ii) afford the producer or group of producers an opportunity to make representations within a certain period on why cancellation should not be proceeded with.

(b) The Executive Officer shall, where representations are received within the stipulated period, consider same before making a decision.

(3) The Executive Officer shall in instances where the registration of a GI or designation of origin is cancelled --

- (a) remove the registered name, details about the producer or group of producers for whom the name was registered, and any other related information from the Register; and
- (b) publish a Notice in the Government Gazette of such cancellation.

Cancellation of use of a registered South African geographical indication or South African designation of origin by individual producers and groups of producers originating from the same defined geographical area

17. (1) The Executive Officer shall cancel the use of a registered South African GI or South African designation of origin allowed for in terms of regulation 5 in the following instances:

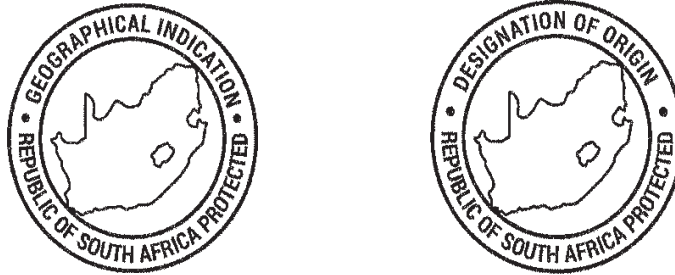
- (a) The registered South African GI or South African designation of origin was cancelled in terms of regulation 16.
- (b) On request of the individual producer or group of producers where the registered GI or designation of origin is no longer used.
- (c) If it is established during inspections referred to in regulation 21(1) that compliance with the product specifications of the registered GI or designation of origin is no longer ensured by the particular producer or group of producers.

(2) The Executive Officer shall in instances where the use of a registered South African GI or

South African designation of origin is cancelled, remove the details of the producer or group of producers from the record referred to in regulation 5(c).

Use of logos, designations and acronyms

18. (1) Only the following official South African GI logo or South African designation of origin logo, as the case may be, shall be used on the agricultural products enjoying protection as a registered South African GI or South African designation of origin:



(2) The following rules shall apply to the use of the official South African GI logo or South African designation of origin logo:

- (a) The dimensions of the logo shall not be smaller than 15mm x 15mm in size.
- (b) The logo shall have a space of minimum 4mm around it from the edge of a label, other text or images.
- (c) The colour of the logo shall not be changed, i.e. only black and white colours shall be allowed.
- (d) The logo shall not be altered, cropped or distorted.
- (e) No part of the logo shall be removed.

(3) A registered South African GI or South African designation of origin —

- (a) may in addition show the following applicable designation or corresponding acronym in the immediate vicinity of the registered name:
 - (i) "Protected Geographical Indication" or "Registered Geographical Indication" or "Republic of South Africa Geographical Indication", or "South African Geographical Indication", or any other designations having a similar meaning;
 - (ii) "PGI" or "RGI" or "RSA-GI" or "SA-GI"; or
 - (iii) "Protected Designation of Origin" or "Registered Designation of Origin" or "Republic of South Africa Designation of Origin" or "South African Designation of Origin", or any other designations having a similar meaning; or
 - (iv) "PDO" or "RDO" or "RSA-DO", or "SA-DO", or any other acronyms having a similar meaning; and
- (b) shall in the same field of view as the registered name show the official South African GI logo or South African designation of origin logo, as the case may be, as depicted in sub-regulation (1).

(4) Imported agricultural products presented for sale under a registered foreign GI or foreign designation of origin, including a registered foreign GI or foreign designation of origin that forms part of an international agreement, that enjoys protection in terms of these regulations may show any GI logo(s) or designation of origin logo(s), designations and acronyms approved for use for such purpose by the competent authority in the country of origin concerned.

Labelling of foodstuffs using agricultural products as ingredients that enjoy protection as registered geographical indications or designations of origin

19. A name registered as a South African GI, South African designation of origin, foreign GI or foreign designation of origin, including a registered foreign GI and foreign designation of origin that forms part of an international agreement, may be indicated as part of or in close proximity to the product name or designation of a foodstuff incorporating agricultural products benefiting from such registered name, as well as in the labelling, presentation and advertising relating to that foodstuff: Provided that the following conditions are met:

- (a) The foodstuff in question should not contain any other 'comparable ingredient', i.e. any other ingredient which may partially or totally replace the ingredient benefiting from the registered GI or designation of origin: Provided that if an ingredient comparable to a registered GI or designation of origin has been incorporated in a foodstuff, the registered name of the GI or designation of origin may appear in the list of ingredients only.
- (b) Where possible, the ingredient should preferably be used in sufficient quantities to impart an essential characteristic to the foodstuff concerned.
- (c) Any emphasis regarding the presence of the ingredient should be subject the requirements on Quantitative Ingredient Declarations (QUID), as specified in the regulations published under the Foodstuffs, Cosmetics and Disinfects Act, 1972 (Act No. 54 of 1972). (Optional)

Agricultural products which fail to meet the product specifications

20. (1) An agricultural product which fails to meet the requirements for the use of a registered GI or designation of origin, but which has been legally presented for sale (marketed) under such name for at least five (5) years prior to the publication of a Notice of application for registration in the Government Gazette, may continue to be --

- (a) produced, packaged and labelled under such name for a period not exceeding two (2) years following the afore-mentioned publication; and
- (b) presented for sale (marketed) for a period not exceeding three (3) years following the afore-mentioned publication.

(2) When the product specifications of a registered GI or designation of origin has been amended in accordance with regulation 15, the agricultural product in question may continue to be produced, packaged, labelled and presented for sale (marketed) under the previous product specifications for a period not exceeding twelve (12) months from the date of publication an amendment in the Government Gazette.

Inspection of producers and groups of producers and trade control of registered geographical indications and designations of origin

21. (1) All producers and groups of producers using a registered South African GI or South African designation of origin shall be subject to inspections by the assignees designated for the agricultural product(s) concerned to establish compliance with the critical elements of control (i.e. minimum product specifications and any other information deemed necessary) submitted in terms of regulation 4(2)(d).

(2) The inspections referred to in sub-regulation (1), shall be conducted --

- (a) at least twice during a calendar year, or in accordance with the frequency as

mutually agreed between the Executive Officer and the producer(s) or the group(s) of producers for which the GI or the designation of origin was registered; and

- (b) at the expense of each producer or group of producers for which the GI or designation of origin was registered and in accordance with the fee(s) determined by the assignee concerned for such inspections.

(3) The assignees designated for the agricultural product(s) concerned shall, within a period not exceeding thirty (30) days of completing an inspection, submit a final report of its findings in writing to the Executive Officer and the producer or group of producers for which the GI or designation of origin was registered.

(4) If during an inspection it is found that a producer or a member of the group of producers does not meet the product specifications registered for the GI or designation of origin concerned, the producer or member of the group of producers shall --

- (a) cease using the registered GI or designation of origin on the particular agricultural product;
- (b) introduce the remedial measures necessary to ensure compliance with the registered product specifications; and
- (c) be subject to a follow-up inspection by the assignees designated for the agricultural product(s) concerned to confirm compliance before being allowed to use the registered GI or designation of origin again.

(5) In the case of registered foreign GIs or foreign designations of origin, excluding registered foreign GIs and foreign designations of origin that form part of international agreements, the Executive Officer shall accept audits carried out by --

- (a) if applicable, the certifying body nominated under regulation 6(2)(c); or
- (b) the competent authority concerned.

(6) Assignees designated for the agricultural product(s) concerned shall during the course of exercising their mandate in the trade for the agricultural product(s) they were designated --

- (a) ensure that all registered South African GIs, South African designations of origin, foreign GIs and foreign designations of origin, including registered foreign GIs and foreign designations of origin that form part of an international agreement, enjoys the scope of protection as set out in regulation 3(1) and (2); and
- (b) take the appropriate action against any transgressions found as permitted for under the Act.

Offences and penalties

22. Any person who contravenes or fails to comply with the provisions of these regulations shall be guilty of an offence, and upon conviction be liable to a fine not exceeding the amount prescribed under the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), or to imprisonment for a period not exceeding the time set out in section 11(2) of the Act, or to both such fine and imprisonment.

Commencement

23. These regulations shall come into operation on the date of publication.

Repeal

24. Regulations published under Government Notice No.R.447 dated 22 March 2019 are hereby repealed from the date of commencement of these regulations.