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DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. R. 3478

2 June 2023

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

REGULATIONS REGARDING CONTROL OF THE EXPORT OF FRESH VEGETABLES

The Minister of Agriculture, Land Reform and Rural Development has, under section 15 of the Agricultural Product Standards Act, 1990 (Act 119 of 1990) made the regulations in the Schedule.



A.T. Didiza

Minister of Agriculture, Land Reform and Rural Development

SCHEDULE

Definitions

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

“address” means a physical address in the Republic of South Africa and includes the street or road number or name, and the name of the town, village or suburb and in case of a farm, the name or number of the farm and of the magisterial district in which it is situated;

“assignee” means a person, undertaking body, institution, association or board designated as under section 2(3) of Agricultural Product Standard Act No.119 of 1990;

“consignment” means a quantity of vegetables of the same kind, belonging to the same owner which is delivered at any one time under cover of the same consignment note, delivery note or receipt note, or is delivered by the same vehicle or if such quantity is divided into different classes, grades, cultivars, counts or size groups each quantity of each of the different classes, grades, cultivars, counts or size groups;

“consignment note” means a consignment note approved by the Executive Officer or the Assignee;

“container” means the immediate container in which fresh vegetables are packed directly and the outer container but excluding shipping containers in which pallet loads are shipped;

“certificate” means a certificate that may be issued either in paper format (including electronically prepared) or in a verified electronic format which describe and attest to conformity of a consignment of regulated agricultural products to stipulated requirements as set out in regulation 6;

“Executive Officer” means the officer designated under section 2 (1) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990);

“Department” means the Department of Agriculture, Land Reform and Rural Development;

“Food Business Operator (FBO)” means the person or persons responsible for ensuring that the prescribed requirements of these regulations are met within the food business under his or her control and include both the management of the food business as well as the person with overall authority on site or in the specific establishment;

“fresh vegetables” means herbs, endives, artichokes, asparagus, aubergines (also known as eggplant or brinjals), baby marrows (courgettes), beetroot, broccoli, Brussels sprouts, butternut, cabbage, capsicums(also known as sweet peppers), carrots, cauliflower (also known as witloof chicory), chillies, Chinese cabbage, courgettes, celery, chives, cucumbers, garlic, gem squashes, ginger, green beans, green peas, green onions (also known as chives), leeks, lettuce, okra, dry onions, parsley, parsnips, peppers, pumpkin, potatoes, radishes, rhubarb, shallots, spinach, sweet corn, sweet potatoes, tomatoes, turnips and unspecified vegetables;

“herbs” means parsley, lemon basil, balm, rosemary, paprika, cinnamon, celery, oregano and other unspecified herbs;

“ISO” means the International Standard Organization;

“Inspector” means the Executive Officer or an officer under his control, or an Assignee or an employee of an Assignee;

“miniature vegetables” means a variety of carrots, courgettes, aubergines, cauliflower, cabbage, sweet corn or other type of vegetables obtained through plant breeding or special cultivation techniques;

"National Reference Laboratory" means an official laboratory of the Department of Agriculture, Land Reform and Rural Development and the Perishable Products Export Control Board (PPECB) that has been nominated in writing by the Executive Officer for the testing of compliance as envisaged in terms of regulations 6(1) and 7(1);

"non-miniature varieties" means produce of varieties which have not fully developed or are inadequate in size and have "mini vegetables" or "baby vegetables" a corresponding meaning;

"Officially Recognized Laboratories" means any laboratory that is not a National Reference Laboratory and that is nominated by the Executive Officer in writing as being suitable or required for the testing of compliance as envisaged in terms of regulations 6(1) and 7(1); and

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

Prohibition on the export of fresh vegetables

2. (1) Subject to the provisions of sub regulation (2) no person shall export fresh vegetables from the Republic of South Africa unless each quantity thereof has been approved by the Executive Officer for that purpose.

(2) Fresh vegetables which are-

(a) exported in a consignment of less than 20kg; and

(b) taken in as provisions for consumption abroad a conveyance to another country shall be exempted from the prohibition set out in sub regulation (1).

(3) An approval in terms of sub regulation (1) may also be given by an Assignee.

Application for approval for export

3. (1) An application for an approval in terms of section 4 of the Act for the export of fresh vegetables shall be directed in writing to the Executive Officer or Assignee, as the case may be.

(2) Such an application shall be made at least five working days before the intended date of export.

(3) The following particulars shall be supplied when such application is made:

(a) The name and address of the applicant and where applicable, of his agent or exporter.

(b) The kind of vegetable, as well as specific class thereof.

(c) The applicable Food Business Operator code.

(d) The number of containers, the mass, or the number of units, as the case may be which comprises the consignment concerned.

(e) The intended date of export and the port from which the consignment concerned shall be exported.

(f) The destination of the consignment concerned.

(g) The address of the premises where the consignment concerned may be inspected and the date and time when the consignment will be ready for inspection.

(h) Any other pertinent information concerning the consignment.

Presentation for inspection

4. (1) Each consignment of fresh vegetables intended for export which has to be presented for inspection in terms of these regulations shall, prior to the export thereof, be approved for export by an inspector: Provided that the consignment of fresh vegetables concerned shall be presented for inspection at least 12 hours prior to the intended time of export or as otherwise arranged with the Executive Officer or Assignee.

(2) A consignment of fresh vegetables referred to in sub regulation (1) that shall be thus inspected, shall be stored in such a manner that –

- (a) access to each container therein can be obtained readily; and
- (b) the marks, printing or writing on such containers can readily be read.

Consignment note

5. (1) Every consignment of fresh vegetables destined for export shall when submitted for inspection, be accompanied by a consignment note completed clearly, legibly, fully and correctly.

(2) All the copies of such a consignment note shall have the same serial number and one copy thereof shall be retained by the Department or Assignee.

Procedure at inspection

6. (1) An inspector may in any consignment of fresh vegetables open as many containers and inspect the contents thereof and remove samples of such contents for the purpose of further inspection or analyses as he/she may deem necessary.

(2) An inspector's finding in relation to the containers opened by him/her by virtue of the provisions of subregulation (1), and the contents thereof, shall apply as a finding in respect of the whole consignment from which such containers were abstracted.

(3) If an inspector is satisfied after his/her inspection that the consignment of fresh vegetables -

- (a) comply with the requirements of these regulations he/she shall approve such consignment for export, either by marking or causing to be marked on each container or label affixed thereto with a mark of approval or by issuing a certificate which indicates such approval: Provided that, the Executive Officer taking into consideration the country of destination's legal requirements may in his or her discretion authorize in writing the issuance of a certificate(s) within a prescribed time after the vegetables have left South Africa; or
- (b) do not comply with the requirements of these regulations he/she shall prohibit such consignment for export, either by marking or causing to be marked on each container or label affixed thereto with a mark or prohibition or by issuing a certificate which indicates such prohibition.

(4) An inspector may at his/her own discretion re-inspect a consignment of fresh vegetables which has already been approved for export and may confirm or withdraw according to subregulation (3) (b) any previous approval with regard to the consignment concerned: Provided that no inspection fee shall be payable in respect of a re-inspection carried out on demand of an inspector.

Assessment of the competence of testing laboratories involved in the export of fresh vegetables

7. (1) For the purpose of analysis as required by regulation 6(1), analysis may be conducted by a National Reference Laboratory or an Officially Recognized Laboratories.

(2) The Executive Officer shall nominate a National Reference Laboratory or Officially Recognized Laboratories in writing to conduct analyses as set out in subregulation (1).

(3) The said laboratories shall be considered on the basis of their suitability, which suitability shall *inter alia* be based on the following criteria:

- (a) A reasonable demonstrable knowledge or expertise in the testing and analysis of fresh vegetables;
- (b) Compliance with the general criteria for testing laboratories as laid down in ISO/IEC 17025: 2017;
- (c) Annual participation in appropriate proficiency testing schemes for analysis which conform to the requirements as laid down in the document titled "The international harmonized protocol for the proficiency testing of analytical laboratories";
- (d) Whenever available, use methods of analysis which have been validated according to the principles as laid down by the *Codex Alimentarius Commission*; and
- (e) Use internal quality control procedures as described in the document titled "Harmonized Guidelines for internal Quality Control in Analytical Chemistry Laboratories".

(4) In addition to compliance with suitability criteria as set out in subregulation (3), an Officially Recognized Laboratory shall be considered for nomination on the following grounds:

- (a) Of necessity in as far as fulfillment of capacity as determined from time to time by the Executive Officer.
- (b) On a three-year period, the period which may be considered for renewal upon assessment by the Executive Officer.

Fees for inspection and analysis

8. The following fees shall be payable for inspection and analysis:

(1) The determined inspection fee when fresh vegetables are presented for inspection.

(2) The fee for testing and analysis of samples shall be charged by the laboratory concerned and this shall include incidental costs such as courier or transport fee.

Approvals and rejections

9. (1) If an inspector approves the export of a consignment of fresh vegetables he shall-

- (a) mark each container in that consignment with a mark of approval; or
- (b) endorse the consignment note of that consignment to such effect; and
- (c) issue a certificate to the effect that such consignment has been approved for export.

(2) If a consignment of fresh vegetables has been rejected for export purposes as a result of an inspection or re-inspection carried out at a port of export, the custodian of that consignment shall as soon as feasible remove it from the port area concerned.

(3) Notwithstanding the provisions of sub regulation (2), an inspector may, in the case of a consignment in connection with which an appeal is lodged -

- (a) direct that such consignment shall not without his consent be removed from the place where the inspection or re-inspection concerned was carried out; and
- (b) apply any mark to the containers concerned which he may deem necessary for identification purposes.

Appeal

10. Any person may lodge an appeal against a decision or direction of the Executive Officer or an Assignee in terms of section 10(1) of the Act or as prescribed in the Appeal Procedures Regulations promulgated under the Act, to the Director-General.

Offences and penalties

11. Any person who contravenes or fails to comply with the provisions of these regulations shall be guilty of an offence and shall be liable to a fine or imprisonment as set out in section 11 of the Act.

Commencement

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

Repeal

13. Regulations published by Government Notice No. R.1031 of 19 December 2014 are hereby repealed from the date of commencement of these regulations.