
BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 915 OF 2026

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RULES IN RESPECT OF EXPORT AGENTS, 2025

It is hereby made known that-

- (a) the rules set out in the Schedule have been made under section 10(b) of the Agricultural Produce Agents Act, 1992, (Act 12 of 1992), (**'the Act'**) read with section 22(2) and (3) of the said Act;
- (b) the rules shall come into effect on the date of publication hereof in the *Gazette*; and
- (c) the rules published by Government Notice BN 62 in GG 41632 are hereby repealed on the said date of publication.

CF Knowles**Registrar of Agricultural Produce Agents' Council**

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PART 1 - DEFINITIONS AND APPLICATION OF RULES

1) Definitions and interpretation

- (1) In these Rules, any word or expression to which a meaning has been assigned in the Act, unless the context otherwise indicates, shall have that meaning and the following words shall have the following meanings-
- (a) **'auditor'** has the meaning set out in the Auditing Profession Act, 2005 (Act 26 of 2005);
 - (b) **'bank'** means a bank registered as such in terms of the Banks Act, 1990 (Act 94 of 1990), referred to in the Act as a 'deposit taking institution';
 - (c) **'B-BBEE Act'** means the Broad-based Black Empowerment Act, 2003 (Act 53 of 2003);
 - (d) **'black people / person'** has the meaning set out in the B-BBEE Act;
 - (e) **'Companies Act'** means the Companies Act, 2008 (Act 71 of 2008);
 - (f) **'conflict of interest'** includes any situation in which an export agent or a designated employee has an actual or potential interest that may, in rendering a service to a principal-
 - (i) influence the objective performance of his obligations to that principal; or
 - (ii) prevent an export agent or designated employee from rendering an unbiased and fair service to that principal, or from acting in the best interests of that principal.
 - (g) **'customer foreign currency account'** is a transactional bank account denominated in currencies other than South African Rand currency and maintained by a bank in South Africa;

- (h) **'designated employee'** means a person who is employed by an export agent and whose duties relate to procurement of fresh produce from producers or suppliers and/or the sale thereof;
- (i) **'emerging export agent'** means an export agent or aspiring export agent who meets the following criteria:
 - (i) is a Black person and/or the majority of whose shares (or similar interest) are beneficially owned by Black Persons; and
 - (ii) whose total annual turnover and/or total shipping volumes in respect of fresh produce are less than the threshold published by the Council from time to time
- (j) **'fresh produce'** means any product reference in the PPECB product code list from time to time
- (k) **'Perishable Products Export Control Act'** means the Perishable Products Export Control Act, 1983 (Act 9 of 1983);
- (l) **'PPECB'** means the Perishable Products Export Control Board established in terms of the Perishable Products Export Control Act;
- (m) **'Prescribed Rate of Interest Act'** means the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975);
- (n) **"public regulation"** means any national, provincial, or local government legislation or subordinate legislation, or any license, permit, directive, or similar authorization issued by a regulatory authority or pursuant to any statutory authority;
- (o) **'shipped' or 'ship'** means the transportation of fresh produce by land, air or sea to a country or territory other than the Republic of South Africa;
- (p) **'the Act'** means the Agricultural Produce Agents Act, 1992 (Act 12 of 1992); and

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- (q) **'writing'** includes communication by e-mail or any appropriate electronic medium that is accurately and readily reducible to written or printed form; and **'written'** has a corresponding meaning.
- (2) When, in these Rules a particular number of 'business days' is provided for between the happening of one event and another, the number of days must be calculated by-
 - (a) excluding the day on which the first such event occurs;
 - (b) including the day on or by which the second event is to occur; and
 - (c) excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in paragraphs (a) and (b), respectively.
- (3) These Rules must be construed-
 - (a) in conjunction with the provisions of the Act and in a manner conducive to the promotion and achievement of the objectives of the Act; and
 - (b) as being in addition to any other law not inconsistent with these provisions and not as replacing any such law.
- (4) The provisions of these Rules apply, unless stated otherwise herein or otherwise by law, to all export agents and designated employees, irrespective of the nature of their remuneration.
- (5) For all purposes of these Rules, the male gender shall include the female and neuter genders and *vice versa*.

2) Export agent conducting business as fresh produce agent

- (1) An export agent shall (unless Rule 2(3) applies) not be entitled to sell the fresh produce of his principal in the Republic of South Africa unless he has complied with the provisions of section 16 of the Act, to the extent that they apply to the occupation of fresh produce agents.

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- (2) Registration as a fresh produce agent (in the manner envisaged in section 16(1) of the Act) will only be required in instances where the fresh produce is not intended for export.
- (3) An export agent shall further not be required to register as a fresh produce agent prior to selling any fresh produce within the Republic of South Africa in instances where:
 - (a) such agricultural product was intended for export, but required to be sold within the Republic of South Africa on account of necessity occasioned by:
 - (i) circumstances beyond the reasonable control of the export agent; and
 - (ii) which could not have been reasonably anticipated on the date on which the said agricultural product was entrusted to the export agent for purposes of export.

PART 2 – REGISTRATION

3) Applications for registration certificates

- (a) An application for a registration certificate shall be made on or before the date on which an export agent commences business as such.
- (b) The application shall be made in the form prescribed from the Council from time to time and:
 - (i) be completed in full in accordance with the directions indicated thereon, and shall be signed by the applicant or by a person duly authorised thereto, on behalf of the applicant;
 - (ii) provide accurate, true and up to date information of the export agent and its designated employee/s as may be required by the Council;
 - (iii) be accompanied by:

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- (1) the applicable application fee determined by the Council for this purpose, as well as the other applicable particulars and documents indicated thereon; and
- (2) a tax clearance certificate issued to the applicant by the South African Revenue Services which tax clearance certificate is not older than 3 (three) months since date of issue.

4) Renewal of registration certificates

- (a) An application for the renewal of a registration certificate shall be made by every export agent that has experienced a change in control within 90 (ninety) days of undergoing such change in control. An export agent who has not undergone a change in control as herein contemplated shall not be required to make application for the renewal of its registration certificate. For the sake of clarity and avoidance of doubt, the export agent shall however remain obliged to make payment of the annual fee required for the maintenance of such certificate as determined in accordance with rule 9.
- (b) The provisions of Rule 3(b) shall apply *mutatis mutandis* to applications made in terms of Rule 4(a)

5) Consideration of Application

- (a) The Council must, on receipt of an application by an export agent for the issue or renewal (if rule 4(a) applies) of a registration certificate, consider the application on the basis of all information disclosed in the application, or otherwise obtained in terms of the Act or these rules, relating to the proposed issue or renewal of a registration certificate and of the following criteria and guidelines:
 - (i) an applicant will not be disqualified from the issue of a registration certificate solely on the basis of the fact that such applicant has not undertaken and/or passed the regulatory courses, training or regulatory exams contemplated in these Rules;

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- (ii) for purposes of the issue of a registration certificate, the requirement (if any) to have undertaken and/or passed the regulatory courses, training or regulatory exams contemplated in Rule 6 will be determined with reference to:
 - (1) the applicant's experience in the export industry;
 - (2) compliance with the Rules and Act in the past; and
 - (3) other documentary evidence placed before the Council demonstrating the applicant's knowledge of the provisions of the Act and Rules together with its ability to comply therewith.
- (iii) an applicant will provide a declaration that the persons in control of the applicant have not been convicted of a criminal offence relating to a crime with an element of dishonesty such as corruption, bribery, fraud or money laundering and a criminal background check will not be required. Should such declaration be found to be false, a registration certificate may be forthwith withdrawn.

6) Fit and Proper Persons

- (a) In order to determine whether applicants are fit and proper persons, the Council must, on receipt of an application by an export agent for the issue or renewal, consider the application (in addition that set out in Rule 5) on the basis of the following criteria and guidelines:
 - (i) that the applicant, designated employees and the persons who are in charge or in control of the applicant:
 - (1) are fit and proper persons;
 - (2) have sufficient and appropriate knowledge of the provisions of the Act and the rules, and particularly of all duties and obligations imposed on the applicant in terms of the Act and the rules and of duties and obligations to be discharged by the applicant in the enforcement of any rights granted by the Act;

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- (3) will, as regards the relevant business, have adequate resources available to ensure proper compliance monitoring, including as regards the activities of the designated employees of the export agent concerned;
- (4) will be able to function adequately independently or objectively;
- (5) will be able and enabled to keep a written record of all activities undertaken in the course of the business including, but not limited to accounting records and relevant financial transactions;
- (6) will be able to function in a manner ensuring that no actual or potential conflicts of interest will be incapable of being managed properly, either internally or externally; and
- (7) will be able to liaise directly with the Registrar.

7) Exceptions and Exemptions

- (a) In the exercise of its approval function, the Council is vested with a discretion and may grant an approval temporarily, provisionally, conditionally or unconditionally in a particular case notwithstanding that the Council is not satisfied that any particular criterion or guideline is fully met in any such case.
- (b) In addition to the above, the Council may grant to Emerging Export Agents such indulgences and/or exemptions as may be reasonably determined by the Council having regard to the Council's objective to enhance the status and dignity of the occupation the persons practising the occupations of export agents read in conjunction with the objectives set out in section 2 of the B-BBEE Act.

8) Payments for registration certificates

- (a) The Council shall not issue a registration certificate to an export agent, unless the amount referred to and determined in terms of subrule (b) has been paid in full to the Council.

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- (b) The amount required from an export agent by the Council in terms of subrule (a) above shall be determined by the Council on an annual basis and shall be paid to the Council simultaneously with the application referred to in Rules 3 and 4 above.

9) Maintenance of registration certificates

- (a) The Council shall annually not later than 30 April in writing notify each export agent who is the holder of a registration certificate, of the amount determined in terms of section 16(9)(a) of the Act, that is payable for the maintenance of such certificate, which payment is to be made not later than the date determined by the Council.
- (b) Such payment, together with any interest accrued in terms of subrule (c) (if applicable), shall reach the Council on or before 30 June first following the date of the relevant notice referred to in subrule (a).
- (c) The total outstanding amount owing from time to time in terms of subrule (a) shall bear interest at the mora interest rate determined from time to time in terms of the Prescribed Rate of Interest Act.

10) Suspension

- (a) The Council may suspend an export agent from conducting his business as export agent if-
 - (i) on written demand by the Registrar, has failed to remedy with 20 (twenty) days of such demand any breach of these Rules.
- (b) If the Council orders a suspension as contemplated in subrule (a), any interested person may apply in the prescribed manner and form to the Council, to cancel the suspension of the export agent; provided however that if such request is made by or on behalf of the export agent concerned, the Council shall cancel the suspension of the export agent, only after the export agent has remedied his breach of the Rules.

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PART 3 – GENERAL DUTIES OF EXPORT AGENTS

11) Fiduciary Duties

- (a) Every export agent and every designated employee owe a fiduciary duty to his principal and must, therefore, at all times render his services-
 - (i) honestly and in good faith;
 - (ii) with due skill, care and diligence reasonably expected of a person-
 - (1) carrying out the same functions in relation to the principal as those carried out by that export agent or that designated employee, whichever is the case; and
 - (2) having the general knowledge, skill and experience of that export agent or that designated employee, whichever is the case; and
 - (3) subject to the provisions of Rule 12 below, in the best interests of his principal or principals.

12) Conflict of Interests

- (a) Subject to the provisions of these Rules, an export agent and a designated employee must at all times avoid and where this is not possible, mitigate and disclose in writing a conflict of interest between his personal interests and the interests of their principal, and must comply with and adopt a conflict of interests and conflict of interest's management policy substantially in the form prescribed by the Council from time to time.

13) Marketing Agreement

- (a) An export agent (subject to subrule (b)) shall within 10 (ten) business days of being mandated by his principal procure that he and his principal execute and sign a written marketing agreement with his principal which, as a minimum, deals with the criteria prescribed by the Council from time to time.

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- (b) Where, in spite of an export agent's reasonable commercial efforts, an export agent is unable to enter into a marketing agreement with the applicable principal, the export agent shall communicate the terms and conditions governing their relationship, which shall as a minimum include those matters specified in subrule (a).

14) Knowledge and Training

- (a) An export agent shall (and where the export agent is a legal entity, shall procure that its designated employees) ensure that it has the requisite knowledge, skills and expertise required to ensure that the conduct their business is undertaken in accordance with the applicable laws (inclusive of the Rules) and technical and professional standards common to the Export Agent's industry.

15) Publicity and advertisements

- (a) An export agent may by means of publicity and advertisements bring his business and the nature of the services rendered by him to the notice of the public, provided-
 - (i) a due sense of responsibility towards the fresh produce industry and the public is displayed therein; and
 - (ii) the export agent concerned does not draw comparisons with or disparage the services of other export agents or markets.
- (b) An advertisement by any export agent must not contain any statement, promise or forecast which is fraudulent, untrue or misleading.
- (c) if it contains-
 - (i) performance data (including awards and rankings), include references to their source and date;
 - (ii) illustrations, forecasts or hypothetical data:
 - (1) contain support in the form of clearly stated basic assumptions (including but not limited to any relevant assumptions in respect of performance, turnover, costs and charges) with a reasonable prospect of being met

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under current circumstances; and make it clear that they are not guaranteed and are provided for illustrative purposes only.

- (d) Information about past performances, also contain a warning that past performances are not necessarily indicative of future performances.

16) Canvassing and touting

- (a) An export agent may canvass for business on condition that he does not:
 - (i) propagate any false or misleading or questionable information of any nature whatsoever;
 - (ii) interfere directly or indirectly with the sale, handling or inspection of fresh produce entrusted for sale to another export agent; or
 - (iii) directly or indirectly influence purchasers not to buy certain fresh products, or fresh produce of a certain class, standard or type, or not to buy fresh produce from a certain export agent, or from a certain principal, unless he can show justification therefore.

17) Confidentiality

- (a) An export agent and an employee may not disclose any confidential information acquired or obtained from a principal in regard to such principal, unless the prior written consent of the principal has been obtained or disclosure of the information is required in the public interest or under any law.

18) Risk Management

- (a) An export agent must at all times have, and effectively employ such resources, procedures and appropriate technological systems that can reasonably be expected to eliminate as far as reasonably possible, the risk that principals will suffer financial loss or damage through theft, fraud, other dishonest acts, negligence or other culpable omissions.
- (b) An export agent, must, without limiting the generality of subrule (a), structure his internal control procedures so as to provide reasonable assurance that:

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- (i) the relevant business can be carried on in an orderly and efficient manner;
- (ii) financial and other information used or provided by the export agent will be reliable;
- (iii) all funds will be properly and timeously accounted for; and
- (iv) all applicable laws and rules will be complied with.

19) Display of Registration Certificate

- (a) An export agent must:
 - (i) display a certified copy of each registration certificate issued to him/it in a prominent and durable manner within every business premises of the export agent;
 - (ii) ensure that a reference to the fact that such a registration certificate is held by such export agent, is contained in all business documentation, advertisements and other promotional material; and
 - (iii) ensure that all registration certificates are at all times immediately or within a reasonable time available for production to any person requesting proof of registration.

PART 4 – FINANCIAL AND ADMINISTRATIVE DUTIES AND RESPONSIBILITIES OF EXPORT AGENTS

20) Costs

- (a) An export agent shall not recover costs or expenses at an amount, rate, or scale other than which was agreed amongst the export agent and Principal or disclosed in the export agent's standard marketing terms.

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21) Fees and Commission

- (a) No export agent may claim remuneration in an amount or at a higher price, rate or scale than the agreed remuneration price, rate or scale or otherwise disclosed in the export agent's standard marketing terms.

22) Accounting Records

- (a) Export Agents shall keep full and correct accounting records relating to all monies received, kept, or expended by him on behalf of his principals, all financial transactions incurred in the course of sale of its principal/s fresh produce, and all fresh produce received, kept, sold, and lawfully destroyed.
- (b) Export agents are not required to keep the records at their premises but must ensure that they are available for inspection within 30 (thirty) days of the Registrar's request.
- (c) Records may be kept in an appropriate electronic or recorded format, which are accessible and readily reducible to written or printed form.
- (d) In the event of any other public regulation requiring a person acting as an export agent to keep and retain the information referred to in these Rules then such export agent shall be deemed to have complied with the provisions of these Rules if and to the extent that the said export agent complied with the said public regulation; provided that such other public regulation is in this regard not less onerous than these Rules.

23) Auditing / Verification of Accounting Records

- (a) An export agent shall cause his financial statements to be audited or independently reviewed at his expense by an auditor within 6 (six) months after the date of his financial year end.
- (b) The determination as to whether an audit or independent review is required shall be determined with reference to the legislation applicable to the export agent in this regard.

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24) Customer foreign currency account

- (a) The export agent shall also open and maintain a customer foreign currency account for all income received in foreign currency.

25) Deposits in bank accounts

- (a) The proceeds of the sale of fresh produce shall, forthwith on receipt thereof, be deposited in the bank account of the export agent.

PART 5 - INTERNAL COMPLAINT RESOLUTION

26) General

- (a) In this Part 5:
- (i) **'complaint'** means a specific complaint relating to a service rendered by an export agent or employee to the complainant or to the conduct of an export agent or employee and in which complaint it is alleged that the export agent or employee-
- (1) has contravened or failed to comply with a provision of the Act or of these Rules irrespective of whether as a result thereof the complainant has suffered or is likely to suffer loss or damage; or
- (2) has wilfully or negligently rendered a service to the complainant which has caused loss or damage to the complainant or which is likely to result in such loss or damage.
- (ii) **'internal complaint resolution system and procedures'**, means the system and procedures established and maintained by the export agent in accordance with these Rules for the resolution of complaints by principals;
- (iii) **'resolution'**, or **'internal resolution'**, in relation to a complaint and an export agent, means the process of the resolving of a complaint through and in accordance with the internal complaint resolution system and procedures of the export agent.

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- (b) An export agent must-
 - (i) request that any person who has a complaint against the export agent must lodge such complaint in writing;
 - (ii) maintain a record of such complaints for a period of five years;
 - (iv) handle complaints in a timely and fair manner;
 - (v) take steps to investigate and respond promptly to such complaints; and
 - (vi) where such a complaint is not resolved to the complainant's satisfaction, advise the complainant that other steps are available in terms of the Act and these Rules.

27) Basic principles of systems and procedures

- (a) An export agent must maintain an internal complaint resolution system and procedures based on the following:
 - (i) maintenance of a comprehensive complaints policy outlining the export agent's commitment to, and system and procedures for, internal resolution of complaints;
 - (ii) transparency and visibility: ensuring that complainants have full knowledge of the procedures for resolution of their complaints;
 - (iii) availability of procedures to clients through electronic means; and
 - (iv) fairness: ensuring that a resolution of a complaint can during and by means of the resolution process be affected which is fair to both complainants and the export agent and its staff.

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28) Resolution of complaints

- (a) The internal complaint resolution system and procedures of the export agent must be designed to ensure the existence and maintenance of at least the following for purposes of effective and fair resolution of complaints:
 - (i) availability of adequate manpower and other resources;
 - (ii) adequate training of all relevant staff, including imparting and ensuring full knowledge of the provisions of the Act, and the rules with regard to resolution of complaints;
 - (iii) ensure that responsibilities and mandates are delegated to facilitate complaints resolution of a routine nature;
 - (iv) ensure that there is provision for the escalation of non-routine serious complaints and the handling thereof by staff with adequate expertise;
 - (v) internal follow-up procedures to ensure avoidance of occurrences giving rise to complaints, or to improve services and complaint systems and procedures where necessary.

29) Specific obligations

- (a) Subject to the other provisions of Part 5, the internal complaint resolution system and procedures of an export agent must contain arrangements which-
 - (i) must-
 - (1) reduce the details of the internal complaint resolution system and procedures of the export agent, including all subsequent updating or upgrading thereof, to writing;
 - (2) allow for the procedures to be made available to complainants by electronic medium; and
 - (3) include in such details the name, address and other contact particulars of the Registrar.

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- (b) must stipulate that complaints must be submitted in writing and must contain all relevant information, and that copies of all relevant documentation must be attached thereto;
- (c) must provide that the receipt of complaints is acknowledged in writing to the complainant within 10 (ten) business days of receipt, with communication particulars of contact staff to be involved in the resolution of the complaint, and are properly internally recorded by the relevant staff;
- (d) must make provision that after the receipt and recording of a particular complaint, the complaint will as soon as reasonably practically possible be forwarded to the relevant staff appointed to consider its resolution, and that-
 - (i) the complaint receives proper consideration;
 - (ii) appropriate management controls are available to exercise effective control and supervision of the consideration process; and
 - (iii) the complainant is informed of the results of the consideration within 6 (six) weeks of receipt of a complaint: Provided that if the outcome is not favourable to the complainant, full written reasons must be furnished to the complainant within 6 (six) weeks of receipt of a complaint.
- (e) In any case where a complaint is resolved in favour of a complainant, the export agent must ensure that a full and appropriate level of redress is offered to the complainant without any delay.
- (f) An export agent must maintain records for a minimum period of 5 (five) years regarding complaints that are received together with an indication whether or not any such complaint has been resolved.
- (g) Only once the internal complaint resolution process has been exhausted may such complaint (provided it falls within the ambit of the Council's responsibility) be referred to the Council for resolution, provided however that this provision shall not be so interpreted as to inhibit a referral to the Council in circumstances where a failure to do so would result in the inability to render such referral in accordance with the time periods provided for in the Act and/or any other applicable legislation.

PART 6 - MISCELLANEOUS PROVISIONS

30) Certain convictions to be reported to Council

- (a) Whenever an export agent or any of his designated employees are convicted of an offence involving an element of dishonesty, such export agent shall within 5 (five) business days after the date of sentencing, notify the Council by registered post or e-mail of the date of conviction, the nature of the offence, the sentence imposed, and by which court.
- (b) Whenever a designated employee leaves the employment of the export agent who employed him, such export agent and such employee shall within 5 (five) business days after the date of termination of employment, notify the Council by registered post or e-mail of the date of termination of employment and the reasons for the termination of his employment.

31) Payment of unclaimed moneys to Council

- (a) If the amount to be paid by an export agent to his principal has not been claimed by the principal within 150 (one hundred and fifty) business days after the sale, that export agent shall pay the amount from his bank account to the Council and furnish the Council with the particulars required in the rules in connection therewith.
- (b) A payment of unclaimed moneys to the Council in terms of section 20(2)(a) of the Act shall be accompanied by a copy of the relevant statement referred to in subrule (a) above.
- (c) Payments referred to in subrule (a) shall annually be made to the Council during March and September to reach the Council not later than the last business day of each of the said months.

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32) Payment of moneys

- (a) Any amount payable to the Council in terms of the Act or these Rules shall be paid by electronic funds transfer or money order made out in favour of or for the credit of the Agricultural Produce Agents Council.

33) Address of Council

- (a) The address of the Council shall-
- (i) for the purposes of documents forwarded by post, be P.O. Box Suite, Private Bag X025, Lynnwood, 0081;
 - (ii) for the purposes of documents delivered by hand, be Acray House (Unit 7 & 8), No 6 De Havilland Crescent, Meiring Naude Road, Persequor, Pretoria; and
 - (iii) for purposes of notices and other communication: www.apacweb.org.za and francois@apacouncil.co.za

34) Title of Rule

- (a) These Rules shall be called the Rules in respect of export agents, 2025.