

**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES
DEPARTEMENT VAN LANDBOU, BOSBOU EN VISSERYE**

No. R. 423

22 May 2015

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

REGULATIONS REGARDING CONTROL OF THE EXPORT OF PROCESSED PRODUCTS

The Minister of Agriculture, Forestry and Fisheries has, under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) -

- (a) made the regulations in the Schedule;
- (b) determined that the said regulations shall come into operation on the date of publication; and
- (c) read together with section 4 of the said Act, repeal the regulations published by Government Notice Nos. R. 1990 of 23 August 1991, R. 1991 of 23 August 1991, R. 1992 of 23 August 1991, R. 1993 of 23 August 1991, R. 1994 of 23 August 1994, R. 1995 of 23 August 1991, R. 1997 of 23 August 1991, R. 1047 of 21 August 1998, R. 904 of 15 September 2000 and R. 1177 of 24 November 2000 with effect from the said date of commencement.

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 –

"Accredited laboratories" means any laboratory that is not a National Reference Laboratory and that is accredited or 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);

"apricot and peach kernels" means the seeds and part of seeds of apricots and peaches which are obtained by shelling;

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

"canned fruit" means commercially sterile fruit in hermetically sealed containers;

"canned mushrooms" means commercially sterile mushrooms in hermetically sealed containers;

"canned pasta" means commercially sterile spaghetti, macaroni, vermicelli or any other suitable pasta in hermetically sealed containers;

"canned vegetables" means commercially sterile vegetables in hermetically sealed containers;

"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;

"commercially sterile" means the conditions achieved by application of heat, sufficient, alone or in combination with other appropriate treatments, to render the canned fruit, mushrooms, pasta or vegetables free from micro-organisms capable of growing in food at normal non-refrigerated conditions at which the canned fruit, mushrooms, pasta or vegetables are likely to be held during distribution, storage and display;

"**consignment**" means, where used with regard to ---

- (a) apricot and peach kernels, a quantity of apricot or peach kernels 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 subdivided into different classes each quantity of each of the different classes;
- (b) canned fruit, canned mushrooms, canned pasta, canned vegetables, frozen fruit, frozen vegetables, jam, jelly or marmalade, a quantity of canned fruit, canned mushrooms, canned pasta, canned vegetables, frozen fruit, frozen vegetables, jam, jelly or marmalade of the same kind which is delivered at any one time under cover of the same delivery note or receipt note, or which is delivered by the same vehicle, or if such a quantity is subdivided into different production groups, types, grades or packing sizes, each quantity of each of the different production groups, types, grades or packing sizes;
- (c) dried fruit, a quantity of dried fruit 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 which is delivered by the same vehicle, or if any such quantity is subdivided into different classes, grades or size groups, each quantity of each of the different classes, grades or size groups; or
- (d) honeybush, green honeybush, rooibos or rooibos mixtures, a quantity of honeybush, green honeybush, rooibos or rooibos mixtures which is delivered at any one time under cover of the same delivery note or receipt note, or is delivered by the same vehicle, or if such a quantity is subdivided into different production groups or classes, each quantity of each of the different production groups or classes;

"**consignment note**" means a consignment note approved by the Executive Officer or the Assignee;

"**Department**" means the Department of Agriculture, Forestry and Fisheries;

"**dried fruit**" means fruit in its original or processed form which has been subjected to a recognized drying process whereby the greater part of its moisture had been extracted and to which a suitable preservative may have been added;

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

"**frozen fruit and frozen vegetables**" means --

- (a) fruit and vegetables which are frozen; or
- (b) fruit and vegetables, presented as frozen products;

"**green honeybush**" means the product obtained from the leaves, flowers and stems of the *Cyclopia* genus whether it has been cut, bruised, and dried or not, but which has not been fermented;

"**hermetically sealed containers**" means containers which are sealed to protect the contents against the entry of micro-organisms during and after heat processing;

"**honeybush**" means the product obtained from the leaves, flowers and stems of the *Cyclopia* genus whether it has been cut, bruised, sweated and dried or not;

"**inspector**" means the Executive Officer or an officer under his/her control, or an Assignee or an employee of an Assignee;

"**jam**" means the product --

- (a) which shall consist of whole fruit, pieces of fruit, fruit pulp or fruit purée of one or more types of fruit;

- (b) to which sweeteners permitted under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), with or without the addition of water, shall be added;
- (c) to which food additives permitted under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), with or without the addition of water, may be added;
- (d) with or without fruit juice or concentrated fruit juice as optional ingredient; and
- (e) processed to a suitable consistency;

"jelly" means the product --

- (a) which shall consist of either the juice or aqueous extracts of one or more types of fruit or of the juice and aqueous extracts of one or more types of fruit;
- (b) to which sweeteners permitted under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), with or without the addition of water, shall be added;
- (c) to which food additives permitted under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), with or without the addition of water, may be added;
- (d) which is practically free from suspended fruit particles; and
- (e) processed to a semi-solid consistency;

"marmalade" means the product --

- (a) which shall consist of whole fruit, fruit pulp or fruit purée of one or more types of citrus fruit with some or all of the peel removed;
- (b) to which sweeteners permitted under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), with or without the addition of water, shall be added;
- (c) to which food additives permitted under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), with or without the addition of water, may be added;
- (d) with or without citrus juice and the extraction of peel; and
- (e) processed to a suitable consistency;

"National Reference Laboratory" means an official laboratory of the Department 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);

"processed products" means --

- (a) apricot and peach kernels;
- (b) canned fruit;
- (c) canned mushrooms;
- (d) canned pasta products;
- (e) canned vegetables;
- (f) dried fruit;
- (g) frozen fruit and frozen vegetables;
- (h) honeybush and green honeybush;
- (i) jam, jelly and marmalade; and
- (j) rooibos and rooibos mixtures;

"**rooibos**" means the product obtained from the needle-like leaves and fine stems of the plant *Aspalathus linearis* (also known as *A. contaminatus* or *Borbonia pinifolia*) whether it has been cut, bruised, fermented and dried or not;

"**rooibos mixtures**" means rooibos blended with herbs or other tea and rooibos with permitted additives; and

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

Prohibition on the export of processed products

2. (1) Subject to the provisions of subregulation (2), no person shall export processed products from the Republic unless each quantity thereof has been approved by the Executive Officer for that purpose.

(2) Processed products which are -

- (a) exported in a consignment of less than 20 kg net mass; and
- (b) taken in as provisions aboard a conveyance to another country,

shall be exempted from the prohibition set out in subregulation (1).

(3) An approval in terms of subregulation (1) may also be given by an Assignee designated with regard to processed products.

Application for approval for export

3. (1) An application for an approval in terms of section 4 of the Act for the export of a consignment of processed products, shall be directed in writing to the Executive Officer or the Assignee who has been designated with regard to those processed products.

(2) Such an application shall be made at least four working days before the intended date of export, or as otherwise arranged with the Executive Officer or designated Assignee.

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

- (a) The name and address of the applicant and, where applicable, of his agent or exporter.
- (b) The type and class, kind and class, type and grade or kind and grade, as the case may be, of product.
- (c) The number of containers in and the mass of the consignment concerned.
- (d) The intended date of export, the method of transport and, in the case of export by sea, the name of the vessel concerned and the port or airport from which the consignment concerned shall be exported.
- (e) The particulars concerning the marking and destination of the consignment concerned.
- (f) The address of the premises where the consignment concerned can be inspected and the date and time when the consignment will be ready for inspection.
- (g) Any other additional information regarding the consignment concerned.

Presentation for inspection

4. (1) Each consignment of processed products 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 processed products 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 designated Assignee.

(2) A consignment of processed products referred to in subregulation (1), shall be submitted for inspection 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 processed products 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 processed products 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 processed products -

- (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; 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 processed products 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 processed products

7. (1) Analyses as required by regulation 6(1) shall be conducted by a National Reference Laboratory or Accredited Laboratories.

(2) The Executive Officer shall in accrediting or nominating a National Reference Laboratory or Accredited Laboratories to conduct such analyses in subregulation (1) consider inter alia their suitability with regards to the following criteria:

- (a) Knowledge and/or expertise in the analyses of processed products;
- (b) Compliance with the general criteria for testing laboratories laid down in ISO/IEC Guide 17025;
- (c) Participation in appropriate proficiency testing schemes for analysis which conform to the requirements laid down in "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 laid down by the Codex *Alimentarius* Commission; and
- (e) Use of internal quality control procedures, such as those described in the "Harmonized Guidelines for internal Quality Control in Analytical Chemistry Laboratories".

Fees for inspection and analysis

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

- (1) The prescribed inspection fee when processed products are presented for inspection.
- (2) The laboratory analysis fee when samples of processed products are analysed chemically, physically or microbiologically for export purposes.
- (3) The courier (transport) fee when samples are dispatched to the laboratory.

Appeal

9. (1) Any person who appeals in terms of section 10(1) of the Act against a decision or direction of an inspector, shall submit a written notice of appeal to an inspector within one day after he/she has been notified of the said decision or direction unless that day falls on a Saturday, Sunday or public holiday in which case the appeal shall be submitted on the first following working day.

(2) Such person shall pay the prescribed fee with the inspector or at any office of the Executive Officer, as the case may be: Provided that such fee shall be paid in respect of each separate consignment, and provided further that if the notice of appeal and the fee are not submitted and paid within the period specified in subregulation (1), the appellant shall lose his/her right of appeal.

(3) An inspector may apply any mark or marks which he/she may deem necessary for identification purposes to the processed products in respect of which an appeal has been submitted, or to the containers thereof, and such processed products shall not without his consent, be removed from the place where they were inspected or where they are stored.

(4) The Director-General shall designate at least three persons to serve as an appeal board.

(5) Such an appeal board shall give the appellant or his representative a reasonable notice of the time and place determined for the hearing of the appeal and may, after the processed products concerned have been produced and identified and all interested parties have been heard, instruct all persons to leave the place where the appeal is being considered: Provided that the appeal board may make use of persons to assist in an advisory capacity.

(6) An appeal board shall decide an appeal within 48 hours (excluding Sundays and public holidays) after it was submitted, and its decision shall be final.

(7) If the processed products concerned are not produced at the time and place determined by the appeal board, the amount paid in respect thereof shall be forfeited.

Offences and penalties

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