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23 August 1991

**AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT No. 119 OF 1990)
REGULATIONS REGARDING CONTROL OF THE EXPORT OF CANNED
FOODSTUFFS**

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

- (a) made the regulations in the Schedule; and
- (b) determined that the said regulations shall come into operation on 1 September 1991.

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 -

canned foodstuffs means the canned products consisting of -

- (a) fruit pulp, fruit sauce, fruit juice, fruit juice concentrate, fruit jam and conserve, jelly or marmalade;
- (b) vegetable puree, vegetable paste, vegetable juice or vegetable concentrate;
- (c) vegetable soup or vegetable soup concentrate;
- (d) spaghetti; and
- (e) mushroom soup,

which have been preserved by heat against decay in hermetically sealed containers;

consignment means a quantity of containers of canned foodstuffs of the same grade and type 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 a quantity is subdivided into different production groups, classes or packing sizes, each quantity of each of the different production groups, classes or packing sizes;

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

production group with regard to canned foodstuffs, means a quantity of containers marked with the same code marks; and

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

Prohibition on the export of canned foodstuffs

- 2.(1) Subject to the provisions of subregulation (2), no person shall export canned foodstuffs from the Republic unless each quantity thereof has been approved by the Executive Officer for that purpose.
- (2) Canned foodstuffs which are-
 - (a) exported to countries specified in the Annexure;
 - (b) exported in a consignment of less than 20 kg; and
 - (c) taken in as provisions for consumption 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 canned foodstuffs.

Application for approval for export

- 3.(1) An application for an approval in terms of section 4 of the Act for the export of canned foodstuffs, shall be directed in writing to the Executive Officer or the Assignee who has been designated with regard to canned foodstuffs, as the case may be.
- (2) Such an application shall be made at least 48 hours before the intended date of export.
- (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, as the case may be.
 - (b) The grade and type of canned foodstuffs in the consignment concerned.
 - (c) The number of containers, the mass and the number of units, as the case may be, which comprises the consignment concerned.
 - (d) The manner of packing and the individual container sizes.
 - (e) 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 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) The trade mark and, where applicable, the code marks which appear on the containers concerned.
 - (i) Any other pertinent information concerning the consignment.

Presentation for inspection

- 4.(1) Each consignment of canned foodstuffs intended for export which has to be presented for inspection in terms of these regulations shall, prior to the export thereof, be inspected by an inspector.
- (2) A consignment referred to in subregulation (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, code marks, printing or writing on such containers can readily be read.
- (3) The person who furnishes an application for an approval in terms of regulation 3, shall pay the prescribed inspection fee specified in the regulations made for this purpose under section 15 of the Act, to the Executive Officer or the Assignee concerned, as the case may be.

Procedure at inspection

- 5.(1) An inspector may open as many containers in a consignment of canned foodstuffs intended for export as he may deem necessary and inspect or analyse or have analysed the contents thereof in such a manner as he may deem fit.
- (2) The result of an inspection or analysis in terms of subregulation (1) shall be deemed to be applicable to the whole consignment of canned foodstuffs.
- (3)(a) An inspector may re-inspect a consignment of canned foodstuffs which has already been approved for export, and may confirm or withdraw any previous approval with regard to the consignment concerned.
- (b) The provisions of regulation 4 and this regulation shall *mutatis mutandis* apply to such re-inspection: Provided that no inspection fee shall be payable in respect of such re-inspection carried out on demand of an inspector.

Approvals and rejections

- 6.(1) If an inspector approves the export of a consignment of canned foodstuffs, 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 canned foodstuffs 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 subregulation (2), an inspector may, in the case of a consignment of canned foodstuffs 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.

Appeals

- 7.(1) Any person who appeals in terms of section 10 of the Act against a decision or direction of an inspector, shall -
 - (a) submit it within 30 days of such decision or direction;
 - (b) submit it in writing to the Director-General or at any office of the Executive Officer;
 - (c) specify the grounds on which the appeal is based;
 - (d) simultaneously pay the prescribed fees to the Executive Officer; and
 - (e) inform the inspector concerned of the submission of the appeal.
- (2) An appeal which is not lodged within the prescribed period or in respect of which the prescribed fees have not been paid, shall not be considered.
- (3) An appeal board shall consist of three members, on member the name of which shall appear on a list which is submitted annually by the South African Fruit and Vegetable Canners Association to the Director-General for this purpose.
- (4) An appeal board shall decide on such an appeal within 48 hours, excluding Saturdays, Sundays and public holidays, after it has been lodged.
- (5) The appeal board shall -
 - (a) notify the appellant concerned as well as the inspector concerned at least two hours beforehand of the date and time on which and place at which the appeal shall be heard and afford them the opportunity to be heard;
 - (b) direct the appellant concerned to present the consignment concerned on the specified date, time and place for inspection; and
 - (c) after having identified the consignment concerned and having heard all interested parties, decide in camera on the appeal concerned: Provided that the appeal board may hear expert opinion and may take, inspect, analyse, grade and classify a sample of the product concerned, before deciding on such an appeal.
- (5) If an appellant fails to present the consignment to which an appeal relates for inspection as referred to in subregulation (4) (b) or if the appeal concerned is dismissed, the fees paid in respect thereof shall be forfeited to the State.
- (6) If an appeal board fails to decide on an appeal within the period specified in subregulation (3), it shall be deemed that such appeal board has set aside the decision or direction which had been appealed against.
- (7) If an appeal is upheld in part only, an appeal board may, in terms of section 10 (9) (b) of the Act, determine that a pro rata portion of the fee referred to in subregulation (1) (d) shall be

refunded to the appellant: Provided that such a pro rata refund shall not be greater than 90 per cent of the fee concerned.

Offense and penalties

8. Any person who contravenes or fails to comply with the provisions of these regulations, shall be guilty of an offense and upon conviction be liable to a fine not exceeding R8 000 or imprisonment for a period not exceeding two years or to both such fine and imprisonment.

ANNEXURE**COUNTRIES IN RESPECT OF WHICH THE PROHIBITION IS NOT APPLICABLE**

Kingdom of Lesotho.
Kingdom of Swaziland.
Republic of Bophuthatswana.
Republic of Botswana.
Republic of Ciskei.
Republic of Namibia.
Republic of Transkei.
Republic of Venda.