

No. R. 195

9 March 2012

**MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996 (ACT No. 47 of 1996)****AMENDMENT OF STATUTORY MEASURE: LEVY RELATING TO POTATOES**

I, Tina Joemat-Pettersson, Minister of Agriculture, Forestry and Fisheries, acting under sections 13 and 15 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), hereby amend the statutory measures published by Government Notice No. R. 638 of 4 August 2011 to the extent as set out in the Schedule hereto.

**TINA JOEMATT-PETTERSON,**  
**Minister of Agriculture, Forestry and Fisheries.**

## SCHEDULE

### Definitions

1. In this Schedule any word or expression to which a meaning has been assigned in the Schedule shall have that meaning, and **“the Notice”** means the Government Notice No. R. 638 of 4 August 2011.

### Amendment of Clause 1 of the Schedule

2. Clause 1 of the Schedule is hereby amended by the insertion of the following definitions after the definition of “market agent”:

**“packing material”** means any packing material intended to be used for the packaging of potatoes, including paper bags, plastic bags and cartons;

**“packing material manufacturer”** means any person that manufactures and sells Packing Material, and includes an agent acting on behalf of such a person;”.

### Amendment of Clause 8

2. Clause 8 of the Schedule is hereby amended by the deletion of paragraph (b) of sub-clause (1).

### Amendment of Clause 9

3. Clause 9 of the Schedule is hereby amended by the substitution of clause 9 with the following clause:

#### **“Time and Manner of Payments of Levies**

9(1) For purposes of a levy payable by a potato producer in terms of clause 8(1)(a) –

(a) the levy concerned shall be payable upon the purchase of packing material from a packing material manufacturer;

(b) the packing material manufacturer shall collect the levy by adding the amount thereof to the price charged for the packing material, calculated by multiplying the levy amounts set out in the clause 7 (“A”) by the capacity of the packing material purchased expressed in kg (“B”), multiplied by the quantity of packing material purchased (“C”) (AxBxC);

(c) the packing material manufacturer shall provide a return to the Administrator, setting out the names and addresses of the persons who purchased packing material during the previous calendar month, together with the capacity and quantities of packing material thus purchased and levies thus raised, within twenty days after the end of that calendar month;

(d) the Administrator shall upon receipt of a return in terms of paragraph (c) invoice the packing material manufacturer for indicating the amount of the levies due, as well as the amount of the commission that the packing material

manufacturer is entitled to retain upon remittance of that invoice, which retention amount shall be equal to 2% (two percent) of the levies due; and

(e) the packing material manufacturer shall fully remit an invoice referred to in paragraph (d) before or on the seventh day of the month following receipt thereof.

(2) any levies raised and collected by a packing material manufacturer in terms of sub-clause (1) –

(a) remains separable from the price of the packing material and does not inherently form part of that price;

(b) must be kept separate from any other funds or assets under the control or possession of that packing material manufacturer;

(c) does not form part of the assets of the packing material manufacturer and may not in any other manner be pledged, ceded or otherwise utilised for security or in any manner laid claim to by creditors of the packing material manufacturer; and

(d) may only be remitted to the Administrator.

(3) in the event that packing material purchased and paid for is destroyed or lost prior to it being utilised the Administrator shall upon the provision of satisfactory evidence refund the applicable levy amounts directly to the purchaser concerned.

(4) Nothing in this clause shall detract from the obligation of a producer to pay levies in the event that potatoes are delivered in bulk or by any means other than by utilising packing material for packing, processing or for sale, or sold or exported, and in such event the levies due shall be paid by the producer concerned not later than the seventh day of the month following such delivery for packing, processing, sale or export.

(5) For purposes of a levy payable in terms of clause 8(1)(c) by a potato importer, the levies due shall be paid by the potato importer concerned not later than the seventh day of the month following the month of import.

(6) Payment in terms of this clause must be made –

(a) by cheque with the beneficiary and other particulars as indicated by the Administrator; or

(b) directly into the bank account indicated by the Administrator.

(7) Interest on levy payments in arrears shall be charged at prime plus two per cent.