

GOVERNMENT NOTICES

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

No. R. 422

22 May 2015

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

REGULATIONS REGARDING CONTROL OF THE EXPORT OF ANIMAL 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. 1984 of 23 August 1991, R. 1986 of 23 August 1991 and R. 1002 of 30 October 2009 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);

“**animal products**” means dairy products, eggs and poultry meat;

“**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);

“**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;

“**composite dairy product**” means a product consisting of a combination of a primary dairy product and another foodstuff, the solids of which are not intended to replace any part of the milk solids of that primary dairy product;

“**consignment**” means, where used with regard to ---

- (a) dairy products, a quantity of dairy products of the same kind 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 lots, classes or packing sizes, each quantity of each of the different production lots, classes or packing sizes;
- (b) eggs, a quantity of eggs 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 a quantity is sub-sorted into different production groups, grades or size groups, each quantity of each of the different production groups, grades or size groups; or

- (c) poultry meat, a quantity of poultry meat 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 a quantity is subdivided into different production lots, classes, grades, portions or cuts, each quantity of each of the different production lots, classes, grades, portions or cuts;

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

"**dairy product**" means a primary dairy product, a composite dairy product or a modified dairy product;

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

"**eggs**" means the eggs of the specie *Gallus domesticus* (domesticated fowls), *Meleagrus gallapavo* (turkeys) and *Anas* (ducks and muscovies);

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

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

"**milk**" means the normal secretion of the mammary glands of bovines, goats or sheep or other milking animals;

"**modified dairy product**" means a product that, in so far as it relates to general appearance, presentation and intended use, corresponds to a primary dairy product, and of which not more than 50 per cent of the fat content, protein content and carbohydrate content has respectively been obtained from a source other than a primary dairy product;

"**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);

"**poultry meat**" means the slaughtered carcasses of the species *Gallus domesticus* (domesticated fowls), *Anas spp.* (ducks) and *Meleagrus gallopavo* (turkeys) as well as any portions or parts of such carcasses which are usually sold for human consumption;

"**primary dairy product**" means milk or a product that has been derived or manufactured solely from milk, and to which no substance other than permitted food additives, not intended to replace any part of the milk solids in that product, are added and includes a product that consists of a combination of two or more of such products; and

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

Prohibition on the export of animal products

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

(2) Animal 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 animal 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 animal products, shall be directed in writing to the Executive Officer or the Assignee who has been designated with regard to those animal 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 or grade or grade and size (in the case of eggs) 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 animal 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 animal 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 animal 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 animal 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 animal 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 animal 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 animal 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 animal 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 animal 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 animal products are presented for inspection.

(2) The laboratory analysis fee when samples of animal 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 animal products in respect of which an appeal has been submitted, or to the containers thereof, and such animal 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 animal 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 animal 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.