

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. R. 3483

2 June 2023

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

REGULATIONS REGARDING CONTROL OF THE EXPORT OF PROCESSED PRODUCTS

The Minister of Agriculture, Land Reform and Rural Development has, under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), made the regulations in the Schedule.



A.T. Didiza

Minister of Agriculture, Land Reform and Rural Development

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 –

"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 type, 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, honeybush mixtures, rooibos, green rooibos or rooibos mixtures, a quantity of honeybush, green honeybush, honeybush mixtures, rooibos, green 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 Assignee;

"**Department**" means the Department of Agriculture, Land Reform and Rural Development;

"**dried fruit**" means processed and unprocessed fruit, in its original form, deppiped (deseeded) or destoned (pitted), cut, peeled and dried by sun-, solar-, tunnel-, oven, wind-, or by any other recognized methods of dehydration, but does not include puréed, minced, cooked and baked dried fruit;

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

"**food additive**" means a food additive as defined and permitted for in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

"**food business operator (FBO)**" means the person or persons responsible for ensuring that the prescribed requirements of these standards are met within the food business under his or her control and include both the management of the food business as well as the person with overall authority on site or in the specific establishment;

"**food business operator code**" means an alpha-numeric code which needs to be uniquely identified and has been registered with the Executive Officer of the Act by each responsible person (FBO) producing or handling in any way products of plant origin destined for the export market. Examples include farms, fields, processing facilities, storage units, transportation, etc.;

"**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;

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

"**herbs**" means either fresh or dried non-toxic leafy green or flowering parts of a plant used for among others the flavouring of foodstuffs;

"**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, but excludes honeybush dust presented for export on its own;

"**honeybush dust**" means the honeybush material that passes through a 60 mesh sieve (i.e. <60 mesh) which is not sterilized and is intended for industrial use only;

"**honeybush mixtures**" means honeybush or green honeybush blended with herbs, spices and/ or other herbal teas, and include honeybush or green honeybush with permitted food additives;

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

"**ISO**" means International Organization for Standardization;

"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 and the Perishable Products Export Control Board 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);

"Officially Recognized Laboratory" means any laboratory that is not a National Reference Laboratory and that is 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);

"other herbal tea" means all of the recognised herbal teas suitable for blending with rooibos, green rooibos, honeybush or green honeybush, including but not limited to the generally consumed tea plant (*Camelia sinensis*), chamomile (*Matricaria retutica* or *Chamaemelum nobile*), Buchu (*Agathosma Betulina*), etc.;

"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, green honeybush and honeybush mixtures;
- (i) jam, jelly and marmalade; and
- (j) rooibos, green 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, but excludes rooibos dust presented for export on its own;

"rooibos dust" means the rooibos material that passes through a 60 mesh sieve (i.e. <60 mesh) which is not sterilized and is intended for industrial use only;

"rooibos mixtures" means rooibos or green rooibos blended with herbs, spices and/ or other herbal teas, and include rooibos or green rooibos with permitted food additives;

"spices" means dried, pungent or aromatic substances of edible plant origin (i.e. from the root, stem, bulb, bark or seeds) primarily used for flavouring, colouring or preserving foodstuffs; 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 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.

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 Assignee.

(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 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 of product, as the case may be.
- (c) The Food Business Operator code, where applicable.

- (d) The number of containers in and the mass of the consignment concerned.
- (e) The intended date and time 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.
- (f) The particulars concerning the marking and destination of the consignment concerned.
- (g) 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.
- (h) 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 Assignee.

(2) A consignment of processed products referred to in subregulation (1), shall be presented 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) For the purpose of analyses as required by regulation 6(1), analyses may be conducted by a National Reference Laboratory or an Officially Recognized Laboratory.

(2) The Executive Officer shall nominate a National Reference Laboratory or an Officially Recognized Laboratory in writing to conduct analyses as set out in subregulation (1).

(3) The said laboratory shall be considered on the basis of their suitability which shall *inter alia* be based on the following criteria:

- (a) A reasonable demonstrable knowledge and/or expertise in the testing and analyses of processed products;
- (b) Compliance with the general criteria for testing laboratories as laid down in ISO/IEC Guide 17025:2017;
- (c) Annual participation in appropriate proficiency testing schemes for analyses which conform to the requirements as laid down in "The international harmonized protocol for the proficiency testing of analytical laboratories";
- (d) Whenever available, use methods of analyses which have been validated according to the principles as laid down by the Codex *Alimentarius* Commission; and
- (e) Use of internal quality control procedures described in the document titled "Harmonized Guidelines for internal Quality Control in Analytical Chemistry Laboratories".

(4) In addition to compliance with suitability criteria as set out in subregulation (3), an Officially Recognized Laboratory shall be considered for nomination on the following grounds:

- (a) Of necessity in as far as fulfillment of capacity as determined from time to time by the Executive Officer.
- (b) On a three-year period, the period which may be considered for renewal upon assessment by the Executive Officer.

Fees for inspection and analyses

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

(1) The determined inspection fee when processed products are presented for inspection.

(2) The fee for testing and analyses of samples shall be charged by the laboratory concerned and this shall include incidental costs such as courier or transport fee.

Appeal

9. Any person may lodge an appeal against a decision or direction of the Executive Officer or an Assignee in terms of section 10(1) of the Act or as prescribed in the Appeal Procedures Regulations promulgated under the Act, to the Director-General.

Offences and penalties

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

Commencement

11. These regulations shall come into operation on the date of publication.

Repeal

12. Regulations published by Government Notice No.R.423 dated 22 May 2015 are hereby repealed from the date of commencement of these regulations.