

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 18 March 2024)

ACT

To amend the Agricultural Product Standards Act, 1990, so as to insert definitions and substitute others; to provide for auditing of a product for management control systems; to make provision for the setting of tariffs by assignees on a cost-recovery basis; to make further provisions for the Minister to make regulations pertaining to audit and management control systems; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 119 of 1990, as amended by section 1 of Act 63 of 1998

1. Section 1 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) 5
(hereinafter referred to as the principal Act), is hereby amended—
- (a) by the insertion after the definition of “assignee” of the following definition: 10
 “**‘audit’** means an examination of the management control system in order to determine whether activities and related results comply with the claims associated with the product;”;
- (b) by the substitution for the definition of “department” of the following 15
definition:
 “**‘department’** means the Department of Agriculture, Land Reform and Rural Development;”;
- (c) by the substitution for the definition of “Director-General” of the following 15
definition:
 “**‘Director-General’** means the Director-General[**: Agriculture**] of the department;”;
- (d) by the substitution for the definition of “management control system” of the 20
following definition:

- “**‘management control system’** means the [principles of procedure with regard to a product, from its primary production to its sale or export] prescribed method of production which may be claimed through the use of a name, word, expression, reference, particulars or indication in any manner, either by itself or in conjunction with any other verbal, written, printed, illustrated or visual material;” 5
- (e) by the substitution for the definition of “Minister” of the following definition: “**‘Minister’** means the [Minister of Agriculture] Cabinet member responsible for agriculture;” and
- (f) by the substitution for the definition of “sell” of the following definition: 10
 “**‘sell’** includes [agree] to [sell, or] offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale, or to exchange or to dispose of to any person in any way for [any] a consideration and ‘sold’, ‘selling’ and ‘sale’ have a corresponding meaning;”.

Amendment of section 2 of Act 119 of 1990, as amended by section 2 of Act 63 of 1998 15

2. Section 2 of the principal Act is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

- “(a) The Minister may, for the purposes of the application of this Act or certain provisions thereof, **with regard to a particular product, designate any person, undertaking, body, institution, association or board having particular knowledge in respect of the product concerned, as an assignee in respect of that product]** designate as assignee a person, undertaking, body, institution, association, or board— 20
- (i) having a particular knowledge of the product concerned; or 25
- (ii) having a particular knowledge of the relevant management control systems, with no direct or indirect personal or financial interest.”.

Amendment of section 3 of Act 119 of 1990, as amended by section 3 of Act 63 of 1998

3. Section 3 of the principal Act is hereby amended by the insertion after subsection (1A) of the principal Act of the following subsection: 30

- “(1B) Any fee determined in terms of subsection (1A)(b)(ii) shall be calculated on a cost-recovery basis, and shall only come into effect if—
- (a) the assignee concerned, within a specified period, has submitted a business plan and budget setting out the powers and duties to be exercised and performed by the assignee and the expected costs associated therewith to the executive officer for consideration; 35
- (b) the executive officer, within a specified period, has invited written comment on the business plan and budget of such assignee from interested parties or individuals who are directly affected by the actions of that assignee; and 40
- (c) the executive officer, after consideration of the comments received in terms of paragraph (b), has in writing approved the business plan and budget of the assignee for a specified period, not exceeding 12 months, set out in such approval.”. 45

Amendment of section 3A of Act 119 of 1990, as inserted by section 4 of Act 63 of 1998

4. Section 3A of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: 50
 “**3A. [Inspection] Audit or inspection, grading and sampling for quality control**”;
- (b) by the substitution in subsection (2) for paragraph (c) of the following paragraph:
 “(c) [In the case of action under subsection (1)(d), the] The relevant person referred to in subsection (1) may [inspect] audit the management control system [in connection with any action referred to in subsection (1)(d),] and demand from the owner or custodian of the 55

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product, material, substance or other article in question, or from the person supervising such management control system, any formation or an explanation regarding the management control system, product, material, substance or other article in question.”; and

(c) by the substitution in subsection (4) for the following subsection: 5

“(4) In the case of action under subsection (1)(b), (c), (d) or (e), or subsection (2)(c) by the relevant person referred to in subsection (1), the owner of the product in question shall pay the prescribed fees or the amount determined by the assignee, as the case may be, for such action.”. 10

Amendment of section 15 of Act 119 of 1990, as amended by section 15 of Act 63 of 1998

5. Section 15 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (d) of the following paragraph: 15

“(dA) management control systems;” and

(b) by the substitution in subsection (1) for paragraph (g) of the following paragraph:

“(g) audit or inspection fees that have been determined by the assignee;” 20

Short title and commencement

6. This Act is called the Agricultural Product Standards Amendment Act, 2023, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.