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DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NO. 6662 **19 September 2025**

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

REGULATIONS RELATING TO THE MANAGEMENT CONTROL SYSTEM IN RESPECT OF THE SALE AND EXPORT OF CERTAIN AGRICULTURAL PRODUCTS

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

Mr J.H. Steenhuizen
Minister of Agriculture

SCHEDULE

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Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act, shall have that meaning, and –

"accreditation" means a procedure by which an authoritative body evaluates and gives a formal recognition that a certification programme is per the standards of the authoritative body.

"agricultural product/s" means any primary or processed product regulated in terms of sections 3(1) and 4(1) read in connection with section 15 of the Act, but does not include a liquor product as defined under the Liquor Products Act, 1989 (Act No. 60 of 1989);

"applicant" means a person or Food business operator who exercises or implements control over the management control system in the production, processing, or preparation of certain agricultural products, and may include the person or FBO applying for registration of a Management Control system with the Executive Officer;

"assignee" means a person, undertaking, body, institution, association, or board designated as such under section 2(3)(a)(ii) of the Act;

"attestations" means documents evidencing that the imported consignment complies with the claimed method of production and that such documents are issued through a verification body or a certification body;

"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 products;

"audit findings" means the results of the auditors' data collection and analysis;

"certification" is the procedure by which an assignee provides written or equivalent assurance that the management control system conforms to the requirements;

"claim" means the use of a name, or word in connection with the sale and export of certain agricultural products;

"competent authority" means a specific Government department or other entity designated by such Government department in a foreign country that is responsible for the registration of a management control system;

"days" means calendar days;

"department" means a Department of Agriculture;

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

"food business operator (FBO)" means the person or persons responsible for ensuring that the prescribed requirements of these regulations 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;

"**homonymous**" means a word or name or an indication that has the same spelling or sounds the same as a claimed method of production;

"management control system" means a method of production that 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;

"method of production" means a manner of production, and or processing, and or handling of certain agricultural products following a particular auditable protocol which is distinguished by the use of a claim;

"monitoring" means evaluating the effectiveness of the assignee by the executive officer while ensuring that all findings are resolved promptly in terms of regulation 18;

"**product**" means---

(a) Any commodity of vegetable or animal origin, or produced from a substance of vegetable or animal origin, and which consists wholly or partially of such substance; and

(b) Any other commodity which in general appearance, presentation, and intended use corresponds to a commodity referred to in paragraph (a);

"protocol" means written procedures and guidelines for the practical implementation or application of a management control system;

"register" means an electronic record of all the registered management control systems in terms of regulation 11;

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

"trademark" means a trademark as defined by the Trademarks Act, 1993 (Act No. 194 of 1993), and in the context of these regulations also includes a registered trademark, a certification trademark, and a collective trademark as defined in the same Act; and

"user" means any person who uses a claim in connection with the sale and export of certain agricultural products.

Scope of the regulations

2. These regulations shall apply to a registered management control system in connection with the sale and export of certain agricultural products.

Prohibition on the use of a management control system

3. (1) No person shall use a management control system in connection with the sale and export of agricultural products –

(a) unless such a management control system is applied with the Executive Officer in terms of regulation 4;

(b) unless the application received is processed and information therein is verified in terms of regulation 6;

(c) unless such a management control system is registered with the Executive Officer in terms of regulation 10;

(d) unless a management control system is labelled in terms of regulation 14;

(e) unless a registered management control system is audited in terms of regulation 16; and

(f) unless a claim of a method of production in respect of imported agricultural products is accompanied by relevant attestations.

(2) The Executive Officer may, taking the following into account, grant written exemption, entirely or partially, to any person(s) or entity on such conditions as he or she deems necessary, from the provisions of sub-regulation (1):

(a) the seriousness of implications of the exemption applied for;

(b) possible unfairness towards consumers relating to the price and quality of the product; and

(c) any other factor the Executive Officer may deem necessary to take into account.

Application for registration of a management control system

4. (1) An application for registration of a management control system shall be submitted electronically to the Executive Officer at least in English by an applicant: Provided that an application for registration shall not be considered in instances where the proposed management control system --

(a) is identical to an existing claim for the same method of production associated with an agricultural product or a group of agricultural products.

(b) falsely communicates to the consumer that the agricultural product concerned is produced according to a management control system although its quality, reputation, or other characteristic is attributable to another method of production.

(c) is not supported by underlying protocols.

(d) is identical to a customary name of a plant variety or animal breed and is likely to mislead the consumer as to the true claim of a method of production.

(e) is wholly or partially homonymous with an existing claim and is likely to mislead consumers: Provided that the Executive Officer may consider the registration of a homonymous name as a claim by taking into account the need to ensure --

(i) the equitable treatment of the applicant of the management control system associated with an agricultural product(s) concerned to which the claim relates;

(ii) that there is a clear distinction between the use of the homonymous name registered subsequently and the use of the name already entered in the Register; and

(iii) that consumers are not misled about the true claim for a method of production of the agricultural product concerned;

(f) is identical or similar to the name of a trademark used in the Republic of South Africa on the same or similar agricultural product(s): Provided that the Executive Officer may register a claim that is identical or similar to a trademark if --

(i) the owner of the trademark has consented to its registration as a claim; or

(ii) he or she has considered that the proposed claim may co-exist with the trademark, taking into account at least the following factors:

(aa) the proposed claim history of use in good faith in the Republic of South Africa; and

(bb) the legitimate interests of the owner of the trademark and third parties;

(iii) notwithstanding provisions of subparagraph (i) and (ii) the use of a trademark identical or similar to the management control system shall comply with the protocols under the said management control system.

(2) An application referred to in sub-regulation (1) shall at least include the information specified below:

(a) The following information regarding the applicant:

(i) name of the applicant and contact details (i.e. physical address, e-mail address, and cellular phone/telephone number).

(ii) details about the applicant's business interests.

(b) The proposed management control system to be registered shall be in English.

(c) Proof that the proposed management control system and incidental claim/s thereof –

(i) is distinctively associated with a method of production;

(ii) does not correspond with the customary name of a plant variety or an animal breed that is likely to mislead the consumer as to the true claim for a method of production associated with the sale and/or export of certain agricultural products; and

(iii) subject to regulation 4(1)(f), the claim is not identical or similar to the name of a trademark used in the Republic of South Africa on the same or similar agricultural products.

(d) The following specifications regarding the agricultural product:

(i) The type of agricultural product.

(ii) A description of the agricultural product's main physical, chemical, microbiological, and organoleptic (where applicable) characteristics: Provided that existing quality or compositional requirements prescribed in the regulations published under the Act for the agricultural product concerned shall be always taken into consideration.

(iii) A detailed description of a protocol associated with a management control system.

(iv) Proof that the agricultural product is produced according to protocol associated with a management control system which shall include the history of the product and its traceability.

(e) A definition of a management control system concerned.

(3) An application referred to in sub-regulation (1) may in addition also include the following information:

(a) Specific elements about the labelling or rules regarding the use of the claim of the proposed method of production: Provided that the existing labeling requirements and restrictions prescribed in the regulations published under the Act for the agricultural product concerned shall still be complied with.

(b) Specific elements of the packaging, where the applicant can justify that the packaging is necessary to ensure product quality and guarantee traceability or control.

(c) A description of production, processing, and handling practices.

(d) A description of cleaning, disinfection, and sanitizing practices.

(e) A detailed list of prohibited substances and or practices.

(4) The applicant for a management control system registration shall provide a summary of the critical elements that will be used by the assignee for the management control system concerned to verify compliance during auditing.

Date of application for registration and priority

5. (1) In terms of regulation 4, the date of application for the registration of a management control system by the applicant shall be regarded as the date upon which the Executive Officer receives the application.

(2) The application received by the Executive Officer for the registration of a management control system shall have priority over any subsequent application for registration of a management control system --

(a) in respect of the same agricultural product; and

(b) having the same or similar management control system.

Processing of applications received and verification of information

6. (1) Upon receipt of an application for registration of a management control system, the Executive Officer shall within a minimum period of sixty (60) days from the date of application evaluate the information submitted in terms of regulation 4(2) to determine whether the following conditions have been met:

(a) All the required information has been included in the application.

(b) The proposed management control system is not excluded from registration under the restrictions set out in regulation 4(1).

(c) The proposed application meets the definition of 'management control system' in regulation 1.

(2) The Executive Officer may --

(a) correct any error of translation, or any obvious spelling error observed in the application filed with him or her, and shall notify the applicant that applied in writing

to remedy the same;

(b) where deemed necessary, request the applicant that applied in writing to submit additional information: Provided that any request and subsequent submission shall be done within a reasonable time and the process completed within the sixty (60) days period specified in sub-regulation (1);

(c) in the case where an application for registration of a management control system was received visit the Food Business Operator to confirm that the information submitted is true and complete within the period specified in sub-regulation (1); and

(d) consult persons with specialized knowledge and experience about any matter relating to the application received within the period specified in sub-regulation (1).

Notice of registration and invitation for objections

7. (1) Once the Executive Officer is satisfied that all the conditions of regulation 6(1) have been met, where necessary the additional information requested in regulation 6(2)(b) has been submitted, and the information submitted is true and complete, he or she shall publish a Notice in the Government Gazette to --

(a) inform all interested parties of his or her intention to register the management control system;

(b) inform all interested parties that information regarding the most important elements of the protocols and its linkage to the management control system concerned is available on request; and

(c) invite any written objections to the proposed registration of the management control system.

(2) The time allowed for objections referred to in sub-regulation 1(c) shall not exceed sixty (60) days from the date of publication of such Notice in the Government Gazette: Provided that any interested party may request the Executive Officer in writing, which shall be duly motivated, to consider an extension of the time allowed for a period not exceeding thirty (30) days.

Objection to the registration of the management control system

8. (1) Any applicant asserting a legitimate interest in the management control system may, within the period allowed for under regulation 7(2), give written notice of an objection to the registration on any of the following grounds:

(a) The proposed application does not meet the definition of 'management control system' in regulation 1.

(b) The proposed minimum protocols are inadequate or impractical for the defined management control system area concerned.

(c) The proposed name would conflict with a trademark, or a wholly or partially homonymous name in use.

(2) Any grounds for objection referred to in sub-regulation (1) shall be accompanied by the necessary scientific or any other supporting evidence.

(3) The Executive Officer shall --

(a) upon receipt of the objection, inform the applicant in writing who in turn shall, within a period not exceeding thirty (30) days, furnish the Executive Officer with a counterstatement of the grounds on which the applicant relies for the application;

(b) upon receipt of the counterstatement referred to in paragraph (a) furnish the objector with a copy thereof; and

(c) if so requested, allow both the applicant who applied and the objector to be heard.

(4) If deemed necessary, the Executive Officer may consult persons with specialized knowledge and experience about any matter relating to the objection received to the registration of the management control system.

(5) The Executive Officer shall, after considering all information, counterstatements, arguments, and any other relevant information presented to him or her, decide within a period not exceeding thirty (30) days whether to reject or register the management control system.

Rejection of application for the registration of a management control system

9. The Executive Officer shall reject an application for registration of the management control system, if --

(a) the additional information requested in terms of regulation 6(2)(b) was not submitted, or only submitted after the sixty (60) days period had lapsed;

(b) no counterstatement was received within the prescribed period referred to in regulation 6(3)(a); or

(c) the application for registration has been opposed and the objection has not been resolved in favour of the applicant that applied.

Registration of a management control system

10. (1) The Executive Officer shall register a management control system, –

(a) if the application for registration has not been opposed within the period allowed for under regulation 7(2); or

(b) if the application for registration has been opposed, but the cause of its opposition is resolved; the registration will be progressed with; and

(c) by entering the name in a Register.

(2) Once a management control system has been registered in terms of sub-regulation (1), the Executive Officer shall --

(a) shall inform the applicant in writing of the registration; or

(b) publish a Notice in the Government Gazette of such registration; and

(c) issue a certificate of compliance.

Keeping a Register of all management control systems

11. (1) The Executive Officer shall establish and maintain a Register of all management control systems in terms of regulation 10.

(2) The Register shall contain at least the following information:

(a) The name of the registered management control system.

(b) The type of agricultural product.

(c) The specifications or a summary of the critical elements of control (i.e. minimum specifications and any other information deemed necessary) that will be used to verify compliance during auditing.

(d) The Executive Officer or a name of the assignee concerned who will verify compliance of a registered management control system.

(e) The date of registration.

(3) The Register shall be open for viewing by the public on the Department's website.

(4) The Executive Officer may correct any obvious error in, or omission from, the Register.

Cancellation of a management control system

12. The Executive Officer shall cancel the use of a registered management control system in instances where the registered management control system is no longer in use.

Disqualification of an applicant from using a registered management control system

13. (1) If it is established during auditing referred to in regulation 16(1) that compliance with the specifications of the registered management control system is not complied with.

(2) The Executive Officer shall, in instances where the disqualified applicant of a registered management control system is done, remove the details of the applicant from the record.

Labelling of certain agricultural products derived from a registered management control system

14. A claim associated with a method of production may be indicated as part of or in close proximate to the product name or be part of the main panel or elsewhere on the packaging or container of an agricultural product benefiting from such a registered management control system, as well as in the labelling, presentation, and advertising relating to that agricultural product: Provided that the following conditions are met:

(1) The agricultural product in question should not contain any other 'comparable ingredient', i.e. any other ingredient which may partially or replace the ingredient benefiting from the registered management control system: Provided that if an ingredient comparable to a registered management control system has been incorporated in an agricultural product, the registered management control system may appear in the list of ingredients only.

(2) Imported agricultural products bearing any claim to a method of production shall be permitted entry into the Republic of South Africa on conditions that requisite attestations accompany a consignment of such agricultural product.

Agricultural products that fail to meet the specifications of a management control system

15. (1) An agricultural product that fails to meet the requirements for the use of a registered management control system, but which has been legally presented for sale (marketed) under such name for at least five (5) years before the publication of a Notice of application for registration in the Government Gazette, may continue to be --

(a) produced, packaged, and labelled under such management control system for a period not exceeding two (2) years following the afore-mentioned publication; and

(b) presented for sale (marketed) for a period not exceeding three (3) years following the aforementioned publication.

(2) Any person requesting an amendment to a registered management control system shall apply in the manner as prescribed in regulation 4.

Auditing of a registered management control system

16. (1) All applicants using a registered management control system shall be subject to auditing by the assignee to establish compliance with the critical elements of control (i.e., minimum specifications and any other information deemed necessary) submitted in terms of regulation 4(2)(d).

(2) The auditing referred to in sub-regulation (1), shall be conducted –

(a) as per the relevant protocol of a management control system registered with the Executive Officer; and

(b) at the expense of each applicant and by the fee(s) determined by the assignee concerned for such auditing.

(3) The assignee shall, within a period not exceeding thirty (30) days of completing auditing, submit a final report of its findings in writing to the Executive Officer and the applicant.

(4) If during auditing it is found that an applicant does not meet the specifications of a registered management control system concerned, the applicant shall --

(a) cease using the registered management control system on the particular agricultural product;

(b) introduce the remedial measures necessary to ensure compliance with the registered management control system; and

(c) be subject to a follow-up auditing by the assignee concerned to confirm compliance before being allowed to use the registered management control system again.

(5) The Executive Officer or assignee concerned shall during the course and scope of exercising their mandate in the trade for the agricultural product(s) --

(a) ensure that all registered management control systems enjoy the scope of protection as set out in regulations 3(1) and (2); and

(b) take the appropriate action against any transgressions found as permitted under the Act.

Requirements for the designation of an assignee

17. (1) The assignee shall –

(a) have an organizational structure that enables it to maintain the capability to exercise the mandate conferred to it;

(b) have a sufficient number of competent, designated permanent personnel with the necessary expertise to carry out its assigned functions;

(c) not have direct or indirect interest in the product(s) it is responsible for;

(d) ensure that all its rendered services are undertaken impartially;

(e) ensure confidentiality of information obtained in the course and scope of its activities;

(f) have access to adequate, suitable facilities and equipment required for rendering its service;

(g) use prescribed methods and procedures in exercising its function;

(h) have and maintain sound financial administration;

(i) have an annual business plan and budget setting out the powers and duties to be exercised and performed and the expected costs associated therewith; and

(j) maintain a record-keeping system to suit its circumstances and to ensure the confidentiality of its clients.

Role of the Executive Officer in monitoring the assignee

18. The Executive Officer shall --

(a) be competent with the necessary expertise to carry oversight role to the assignee;

(b) provide monitoring of the assignee's requirements as set out in regulation 7(1) (a) to (g);

(c) ensure that all findings are resolved promptly; and

(d) maintain a record-keeping system of the monitoring conducted to the assignee.

Offences and penalties

19. Any person who contravenes or fails to comply with the provisions of these regulations shall be guilty of an offence, and upon conviction be liable to a fine not exceeding the amount prescribed under the Adjustment of Fines Act, 1991 (Act No. 101 of 1991), or to imprisonment for a period not exceeding the time set out in section 11(2) of the Act, or to both such fine and imprisonment.

Commencement

20. These regulations shall come into operation 12 months after the date of publication.

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