

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 712

14 AUGUST 2015

AGRICULTURAL PRODUCT STANDARDS AMENDMENT BILL, 2015**INVITATION FOR PUBLIC COMMENTS**

I, Senzo Zokwana, Minister of Agriculture, Forestry and Fisheries hereby invite all interested institutions, organizations and individuals to submit written comments on the Agricultural Product Standards Amendment Bill.

Comments must be submitted in writing within 30 days from date of publication of this notice. They must be sent to:

The Executive Officer: Agricultural Product Standards
Directorate: Food Safety and Quality Assurance
Department of Agriculture, Forestry and Fisheries
Private Bag X343
Pretoria
0001

Physical address: Department of Agriculture, Forestry and Fisheries
30 Hamilton Street
Harvest House Building; Room 143
Arcadia
Pretoria

E mail: BillyM@daff.gov.za

Fax: 012 319 6055/6265

Senzo Zokwana (MP)

Minister of Agriculture, Forestry and Fisheries

REPUBLIC OF SOUTH AFRICA

AGRICULTURAL PRODUCT STANDARDS AMENDMENT BILL

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*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill published in Government Gazette No. of 2015) (The English
text is the official text of the Bill)*
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(MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES)

[B-2015]

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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
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BILL

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) (hereinafter referred to as the principal Act), is hereby amended—
 - (a) by the substitution for the definition of “assignee” of the following definition:

" **'assignee'** means a person, undertaking, body, institution, association, or board designated as such under section 2 (3), which does not have direct or indirect interest in the product concerned,";

(b) by the insertion after the definition of "**assignee**" of the following definition:

" **'audit'** means a systematic and functionally independent examination of a product to determine whether activities and related results comply with the management control system";

(c) by the substitution for the definition of "**department**" of the following definition:

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

(d) by the substitution for the definition of "**Director-General**" of the following definition:

" **'Director-General'** means the Director-General [**: Agriculture**] of the department";

(e) by the substitution for the definition of "**management control system**" of the following definition:

" **'management control system'** means the [**principles of procedures with regard to a product, from its primary production to its sale or export**] prescribed requirements relating to 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, in respect of the sale or export of a product ;";

(f) by the substitution for the definition of "**Minister**" of the following definition:

" **'Minister'** means the [**Minister of Agriculture**] Cabinet member responsible for agriculture, forestry and fisheries;"; and

(g) by the substitution for the definition of "**sell**" of the following definition:

" 'sell' includes **[agree]** to **[sell, or]** offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale, or exchange, or to dispose of to any person in any way for a consideration or otherwise; 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

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 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]**—

- (i) designate as assignee a person, undertaking, body, institution, association, or board having a particular knowledge in respect of the product concerned; and
- (ii) in addition to the designation referred to in subparagraph (i), designate as assignee one or more person(s), undertaking(s), body(ies), institution(s), association(s), or board(s) having a particular knowledge in respect of the management control system(s) related to that product."

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 insertion after subsection (1A) of the principal Act of the following subsections:

"(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 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;
- (b) the executive officer, within a specified period, has invited written comment on the business plan and budget of such assignee from the interested parties or individuals who, in the opinion of the executive officer, are directly affected by the actions of that assignee; and
- (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 set out in such approval."

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:

"3A. Audit or inspection, grading and sampling for quality control";

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

"(d) audit or inspect or test or cause to be tested any quantity of a product, material, substance or other article which is used or suspected to be used at or in connection with the production, processing, treatment, preparation, classification, grading, packing, marking, labelling, keeping, removal, transporting, exhibition or sale of such product;" and

(c) by the substitution in subsection (2) for paragraph (c) of the following paragraph:

"(c) in the case of action under subsection (1)(d), 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 product, material, substance or other article in question, or from the person supervising such management control system, any information or an explanation regarding the management control system, product, material, substance or other article in question."

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 by—

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

"(dA) management control system"; and

(b) the substitution for paragraph (g) of the following paragraph:

"(g) audit or inspection fees that have been determined by the assignee;"

Short title and commencement

6. This Act is called the Agricultural Product Standards Amendment Act, 2015, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.