

GN. R. 1991
GG13473
23 August 1991

**AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT No. 119 OF 1990)
REGULATIONS REGARDING CONTROL OF THE EXPORT OF FROZEN FRUIT AND
FROZEN VEGETABLES**

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

- (a) made the regulations in the Schedule; and
- (b) determined that the said regulations shall come into operation on 1 September 1991.

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 -

consignment means a quantity of frozen fruit or frozen vegetables of the same kind 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 such a quantity is subdivided into different production groups, classes or packing sizes, each quantity of each of the different production groups, classes or packing sizes;

frozen fruit and frozen vegetables means-

- (a) fruit and vegetables which are frozen; or
- (b) fruit and vegetables, presented as frozen products;

Inspector means the Executive Officer or an officer under his control, or an Assignee or an employee of an Assignee;

production group means a quantity of frozen fruit and frozen vegetables marked with the same code mark; and

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

Prohibition on the export of frozen fruit and frozen vegetables

- 2.(1) Subject to the provisions of subregulation (2), no person shall export frozen fruit and frozen vegetables from the Republic unless each quantity thereof has been approved by the Executive Officer for that purpose.
- (2) Frozen fruit and frozen vegetables which are
- (a) exported to countries specified in the Annexure;

- (b) exported in a consignment of less than 20 kg; and
 - (c) 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 designated with regard to frozen fruit and frozen vegetables.

Application for approval for export

- 3.(1) An application for an approval in terms of section 4 of the Act for the export of frozen fruit and frozen vegetables, shall be directed in writing to the Executive Officer or the Assignee who has been designated with regard to frozen fruit and frozen vegetables, as the case may be.
- (2) Such an application shall be made at least 48 hours before the intended date of export.
- (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 kind and grade of frozen fruit and frozen vegetables which comprises the consignment concerned, as well as the specific class thereof.
 - (c) The number of containers, the mass and the number of units, as the case may be, which comprises the consignment concerned.
 - (d) The manner of packing and the individual container sizes.
 - (e) 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 from which the consignment concerned shall be exported.
 - (f) The destination of the consignment concerned.
 - (g) Particulars with regard to the establishment in which such frozen product is prepared.
 - (h) The address of the premises where the consignment concerned may be inspected and the date and time when the consignment will be ready for inspection.
 - (i) The trade mark and, where applicable, the code marks which appear on the containers and packages concerned.
 - (j) Any other pertinent information concerning the consignment.

Presentation for inspection

- 4.(1) Each consignment of frozen fruit and frozen vegetables intended for export which has to be presented for inspection in terms of these regulations shall, prior to the export thereof, be inspected by an inspector.

- (2) A consignment referred to in subregulation (1), shall be presented for inspection at least 24 hours before such a consignment is exported.
- (3) A consignment referred to in subregulation (1), that shall be thus inspected, shall be stored 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.
- (4) The person who furnishes an application for an approval in terms of regulation 3, shall pay the prescribed inspection fee specified in the regulations made for this purpose under section 15 of the Act, to the Executive Officer or the Assignee concerned, as the case may be.

Procedure at inspection

- 5.(1) An inspector may open as many containers in a consignment frozen fruit and frozen vegetables intended for export as he may deem necessary and inspect or analyse or have analysed the contents thereof in a manner as he may deem fit.
- (2) The result of an inspection or analysis in terms of subregulation (1) shall be deemed to be applicable to the whole consignment frozen fruit and frozen vegetables.
- (3)(a) An inspector may re-inspect a consignment frozen fruit and frozen vegetables which has already been approved for export, and may confirm or withdraw any previous approval with regard to the consignment concerned.
- (b) The provisions of regulation 4 and this regulation shall *mutatis mutandis* apply to such re-inspection: Provided that no inspection fee shall be payable in respect of a re-inspection carried out on demand of an inspector.

Approvals and rejections

- 6.(1) If an inspector approves the export of a consignment frozen fruit and frozen vegetables, he shall-
 - (a) mark each container in that consignment with a mark of approval; or
 - (b) endorse the consignment note of that consignment to such effect; and
 - (c) issue a certificate to the effect that such consignment has been approved for export.
- (2) If a consignment frozen fruit and frozen vegetables has been rejected for export purposes as a result of an inspection or re-inspection carried out at a port of export, the custodian of that consignment shall as soon as feasible remove it from the port area concerned.
- (3) Notwithstanding the provisions of subregulation (2), an inspector may, in the case of a consignment of frozen fruit and frozen vegetables in connection with which an appeal is lodged -
 - (a) direct that such consignment shall not without his consent be removed from the place where the inspection or re-inspection concerned was carried out; and

- (b) apply any mark to the containers concerned which he may deem necessary for identification purposes.

Appeals

- 7.(1) Any person who appeals in terms of section 10 of the Act against a decision or direction of an inspector, shall -
 - (a) submit it within 20 days of such decision or direction;
 - (b) submit it in writing to the Director-General or at any office of the Executive Officer;
 - (c) specify the grounds on which the appeal is based;
 - (d) simultaneously pay the prescribed fees to the Execution Officer; and
 - (e) inform the inspector concerned of the submission of the appeal.
- (2) An appeal which is not lodged within the prescribed period or in respect of which the prescribed fees have not been paid, shall not be considered.
- (3) An appeal board shall decide on such an appeal within 48 hours, excluding Saturdays, Sundays and public holidays, after it has been lodged.
- (4) the appeal board shall -
 - (a) notify the appellant concerned as well as the inspector concerned at least two hours beforehand of the date and time on which and place at which the appeal shall be heard and afford them the opportunity to be heard;
 - (b) direct the appellant concerned to present the consignment concerned on the specified date, time and place for inspection; and
 - (c) after having identified the consignment concerned and having heard all interested parties, decide in camera on the appeal concerned: Provided that the appeal board may hear expert opinion and may take, inspect, analyse, grade and classify a sample of the product concerned, before deciding on such an appeal.
- (5) If an appellant fails to present the consignment to which an appeal relates for inspection as referred to in subregulation (4) (b) or if the appeal concerned is dismissed, the fees paid in respect thereof shall be forfeited to the State.
- (6) If an appeal board fails to decide on an appeal within the period specified in subregulation (3), it shall be deemed that such appeal board has set aside the decision or direction which had been appealed against.
- (7) If an appeal is upheld in part only, an appeal board may, in terms of section 10 (9) (b) of the Act determine that a pro rata portion of the fee referred to in subregulation (1) (d) shall be refunded to the appellant: Provided that such a pro rata refund shall not be greater than 90 per cent of the fee concerned.

Offense and penalties

8. Any person who contravenes or fails to comply with the provisions of these regulations, shall be guilty of an offense and upon conviction be liable to a fine not exceeding R8 000 or imprisonment for a period not exceeding two years or to both such fine and imprisonment.

ANNEXURE

COUNTRIES IN RESPECT OF WHICH THE PROHIBITION IS NOT APPLICABLE

Kingdom of Lesotho.
Kingdom of Swaziland.
Republic of Bophuthatswana.
Republic of Botswana.
Republic of Ciskei.
Republic of Namibia.
Republic of Transkei.
Republic of Venda.