

GOVERNMENT NOTICE

MINISTRY OF AGRICULTURE, WATER AND LAND REFORM

No.

2022

REGULATIONS RELATING TO THE LOCAL PRODUCTION AND TRADING OF CONTROLLED PRODUCTS: AGRONOMIC INDUSTRY ACT, 1992

Under section 24(1) of the Agronomic Industry Act, 1992 (Act No. 20 of 1992), after consultation with the Namibian Agronomic Board, I –

- a) have made the regulations, compliance with which has been made compulsory in terms of section 24 of that Act, as set out in the Schedule; and
- b) determine that the regulations come into effect on xxx date.

CARL-HERMANN G. SCHLEITWEIN, MP
MINISTER FOR AGRICULTURE, WATER AND LAND REFORM

Windhoek, 2022

SCHEDULE

ARRANGEMENT OF REGULATIONS

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1. DEFINITIONS

Note: This section could include explanations for:

- a. Definitions,
- b. Acronyms,
- c. Abbreviations, and
- d. Interpretations

In these regulations, a word or an expression to which a meaning has been given in the Act has that meaning, and unless context otherwise indicates –

“Board” means the Namibian Agronomic Board established by section 3(1) of the Agronomic Industry Act, Act 20 of 1992.

“certification” means a document issued by the Board as third-party attestation related to an object of conformity assessment.

“compliance inspector” means an employee of the Board, with responsibility to inspect – and make decisions or recommendations on - controlled products.

“controlled product” means an agronomic crop or agronomic product to which the provisions of the Act apply.

“destructive inspection” means that the sample(s), drawn for inspection, may be destroyed through cutting, pulping or insertion of equipment into the sample during inspection.

“disposal” means moving a product out of the current value chain to another destination. This destination could be a processing plant, another market, municipal dump or incinerator.

“entity” means any natural person, company, group or association.

“facility” means farms, packhouses, horticultural trading facilities and mills.

“facilities” means any premise where controlled products are handled

“G.A.P.” means Good Agricultural Practices, which is a collection of principles applied to on-farm production and post-production processes, resulting in safe and healthy food and non-food agricultural products.

“GLOBALG.A.P. certification system” means the certification system as a whole, as described by the GLOBALG.A.P. General Regulations and the Control Points Compliance Criteria.

“localg.a.p. certification” means the certification system as whole, as described by the localg.a.p. Primary Farm Assurance program.

“miller” means an entity who operates a mill for grinding grain into flour.

“non-destructive inspection” means that the sample(s), drawn for inspection, will not be damaged in any manner and will be returned to their original location after inspection is completed.

“NAB’s Website” means the N.A.B.’s website, located at www.nab.com.na.

“operators” means any entity involved in the value chain of controlled products.

“organic food” means products grown without the use of synthetic chemicals, such as human-made pesticides and fertilizers, and do not contain genetically modified organisms.

“place of sale” means any place where controlled products are offered for sale to retailers or the general public. Places include, but are not limited to, municipal markets, informal trading points and retail stores.

“packhouse” means a facility set up for handling harvested produce. Also called a produce handling facility.

“premises” means farms, packhouses, horticultural trading facilities including markets and retail outlets, cold storage facilities and mills.

“producer” means an entity who is legally responsible for the production processes and the products they sell.

“product group” means the type of product, such as table grapes, apples, pears or oranges, etc.

“product sub-group” means the variety or cultivar, such as Granny Smith, Navels or Valencia’s, etc.

“processor” any registered entity involved in the manufacturing of products derived from a controlled product.

“regulator” means the Board, which is the institution that has the authority to monitor agronomic and horticultural products in Namibia for the purpose of ensuring compliance with these regulations.

“retail outlet” means a premise where controlled products are sold to the general public.

“the Act” means the Agronomic Industry Act, 1992 (Act 20 of 1992).

“service miller” a person or entity who owns or operates a mill, especially a mill that grinds grain into flour, rendering a service to persons or entities for the purpose of commercial trading and human consumption.

“relevant party” means an entity involved in the value chain of controlled products.

“traceability” means the ability to trace and follow a food product or substance intended to be, or expected to be, incorporated into a food product through all stages of production, packing, processing, handling and distribution.

“trader” means an entity who is involved for commercial gain through the handling of controlled products

“transport unit” means a trailer, truck or and other piece of equipment used in the transportation of controlled products.

2. PURPOSE (OBJECTIVE)

The purpose of these regulations is to ensure that all controlled products produced, packed and offered for sale in Namibia, comply with the requirements set out herein, with the objective of achieving safe food for all and creating consumer confidence in the regulatory processes.

3. SCOPE

These regulations apply to all controlled products produced, packed, or processed in the Republic of Namibia for commercial gain and intended human consumption.

4. REQUIREMENTS UNDER THIS REGULATION

4.1 Registration

- 4.1.1 All producers, millers (including service millers), processors and traders of controlled products, shall be required to register with the Board on application and in the prescribed form, as per section 10(1)(j) of the Agronomic Industry Act (Act 20 of 1992).
- 4.1.2 All farms, packhouses, horticultural trading facilities (cold storage facilities), mills and all places where controlled products are handled or stored in Namibia, shall be required to register with the Board on application and in the prescribed form, as per section 10(1)(j) of the Agronomic Industry Act (Act 20 of 1992).
- 4.1.3 Upon registration, a licence, certificate, or card valid for a specific period shall be issued to confirm registration, and such entity may engage in the production, processing, storage, and marketing of controlled products.
- 4.1.4 In terms of section 10(k)(ii) of the Agronomic Industry Act (Act 20 of 1992), any entity engaged in the production, processing, storage, and marketing of controlled products shall be required to provide specified information to the Board.

4.2 Certification

- 4.2.1 All facilities which handle controlled products shall be inspected annually by the Board and certified against specific criteria. Certification is mandatory for registration.
- 4.2.2 All producers and pack houses of controlled horticultural products, intended for commercial processing and human consumption, shall have a valid G.A.P. certificate in compliance with, either GLOBALG.A.P. certification system for export products if required by the market, or localg.a.p. certification system based on the Primary Farm Assurance (PFA) Standard entry level requirements, for the Namibian market, as a minimum.
- 4.2.3 The Primary Farm Assurance Standard referred in 4.2.2 consist of the All Farm Base, Crop Base and Fruit & Vegetables modules.
- 4.2.4 All producers of controlled agronomic products, intended for commercial processing and human consumption, shall only deliver agronomic products in compliance with localg.a.p. certification system based on the Primary Farm Assurance (PFA) standard entry level requirements as adopted for the grain sector herein referred to as Annexure B, as a minimum.
- 4.2.5 The Primary Farm Assurance Standard referred in 4.2.4 consist of the All Farm Base, Crop Base and Combinable Crops modules.
- 4.2.6 Controlled agronomic products which do not comply with the requirements contained in 4.2.4 and 4.2.5 will not be accepted by the facility or millers.
- 4.2.7 Any product which is labelled with a claim that it has been produced under organic conditions shall provide proof of certification based on the Guidelines for the

Production, Processing, Labelling and Marketing of Organically Produced Foods which were adopted by the Codex Alimentarius Commission, or equivalent.

- 4.2.8 All producers of controlled agronomic products shall have a valid letter of conformance issued by the NAB.
- 4.2.9 All Millers or processors of controlled agronomic products shall have an operating license, including service millers issued by the NAB.

4.3 Inspection

- 4.3.1 localg.a.p. assessment will be undertaken at farms and packhouses of controlled horticultural products, upon receipt of the completed application form.
- 4.3.2 Horticultural trading facilities (cold storage facilities), retail outlets and mills shall be subjected to annual inspections, upon submission of the renewal application form with all supporting documentations.
- 4.3.3 The frequency and intensity of inspections will be determined by the type of certification held by the facility and the level of G.A.P. certification held by the suppliers to that facility.
- 4.3.4 The facility shall provide a suitable inspection area for the inspector to conduct inspection, as applicable to the products being inspected and the type of inspection to be conducted.
- 4.3.5 All producers of controlled agronomic products shall be required on an annual basis to submit the completed self-assessment checklist to the NAB to demonstrate compliance with the Namibian grain food safety standard requirements.
- 4.3.6 In order to confirm and verify compliance as per 4.3.5, the NAB will conduct inspections on farms on a sample basis, and in the event of non-compliance the specific producer shall be subjected to annual inspections.
- 4.3.7 All controlled products arriving at a place of sale to the public, shall be accompanied by a consignment – or delivery – note or invoice. These documents shall contain the following information, as a minimum:
 - a) A unique number to identify the document.
 - b) The producer or processor of the product
 - c) The date delivered to the place of sale
 - d) The consignee
 - e) The product group and product sub- group, where applicable
 - f) The quantities per group and sub-group
 - g) The class and/or grade, where applicable
 - h) The value of the consignment, payable by the consignee
- 4.3.8 Management, at the place of sale, shall provide unrestricted access to the premises, all documentation required and actual products, which the inspector requires for purposes of inspection.
- 4.3.9 The inspector may draw samples for inspection or further analysis. Inspection and analysis may be destructive, or non-destructive, depending on the methods applied.
- 4.3.10 The inspector will determine the result of inspection and conclude whether the product, or consignment, is in compliance with these regulations and other inspection requirements.

- 4.3.11 The inspector will issue an inspection report to the current owner of the product, stating the results of the inspection.
- 4.3.12 If the product, or consignment, is approved, it may proceed along the value chain.
- 4.3.13 If the product, or consignment, is rejected, it must immediately be segregated and not offered for further sale, until disposal instructions have been finalised by the current owner of the product.
- 4.3.14 The current owner shall provide the inspector with proof of disposal within twenty-four hours after receipt of the rejection report.
- 4.3.15 Legible copies of all documentation used in the inspection process will be collated by the inspector and used for input into the AMID system and the M.I.S., where applicable and then filed appropriately for a period of three years.
- 4.3.16 All documentation relevant to the inspection of a controlled product shall be maintained by the relevant party for three years, to ensure traceability and information required by Board shall be submitted without delay.

5. WITHDRAWAL OF REGISTRATION

5.1 Registration will be withdrawn if:

- (i) The registered entity is found guilty of an offence in accordance with clause 11 of these regulations.
 - (ii) The registered entity is declared insolvent in terms of the Insolvency Act (Act 24 of 1936).
 - (iii) The registered entity ceases to exist, or the individual, who is registered, passes away.
 - (iv) If the entity fails to pay outstanding debt to the Board.
 - (v) If the entity is found to be producing, processing and/or trading in inferior quality products, or products which are proven to be unsafe for human consumption.
- b. An entity may lodge an appeal against the withdrawal of registration in accordance with the appeals procedure in clause 12 of these regulations.

6. SURVEILLANCE

The very nature of the inspection methodology is based on unannounced inspections and will include all the aspects of surveillance inspections or audits, as applicable.

7. LEVIES & FEES

The following levies & fees are payable:

- 7.1 Any miller or processor of controlled products shall be required to pay an annual registration fee to the Board, as prescribed by the Board from time to time, where applicable.

- 7.2 Millers or processors of controlled products shall pay a general levy to the Board, which is a percentage of the purchase price of the grain used in the milling process. These levies are published in the Government Gazette.
- 7.3 Millers or processors of controlled agronomic products shall deduct and pay a general levy to the Board, on behalf of the producer. This levy is a percentage of the price of the grain purchased from producers. These levies are published in the Government Gazette.
- 7.4 Traders of controlled products shall pay a general levy to the Board, which is a percentage of the purchase price of horticultural products. These levies are published in the Government Gazette.
- 7.5 Traders of controlled horticultural products shall deduct and pay a general levy to the Board, which is a percentage of the price of horticultural products purchased from producers. These levies are published in the Government Gazette.
- 7.6 Additional fees for inspection, product sampling and testing analysis shall be charged, if applicable, when the regulator has to conduct surveillance inspection for the purpose of confirming continuous compliance, as determined from time to time.
- 7.7 Where applicable, for the purpose of surveillance inspection, the costs associated with travel and accommodation shall be charged to the relevant party. In the case of non-compliance?

8. CONFIDENTIALITY

- 8.1 All employees of the Board are bound by confidentiality and will not disclose any detail of communication, transactions or decisions, taken to a third party, save with the approval of the party involved.
- 8.2 All producers, processors and traders shall respect the confidentiality requirements involved in transactions and shall not disclose any part of the process, including transactions and decisions, to third parties, save with the written approval of the Board.

9. PROHIBITIONS

Not applicable to these regulations

10. RESTRICTIONS

Not applicable to these regulations

11. OFFENCES & PENALTIES

- 11.1 If an entity offers controlled agronomic and horticultural products for sale that do not comply with this regulation, the entity commits an offence and on conviction is liable to a fine or imprisonment, or to both such fine and such imprisonment.

- 11.2 Any violations of these regulations shall be dealt with in accordance with Section 22 of Agronomic Industry Act 20 of 1992 and any other applicable rules and procedures issued in terms of the Act or Directives.
- 11.3 The penalties applicable to offences are shown in the table in 13.4 - Annexure D.

12. APPEALS

All appeals on the decision of the Board made in regard to these regulations, shall be made in accordance with Section 11 of the Agronomic Industry Act 20 of 1992 and the Appeals Procedure.

13. ANNEXURES

- 13.1 Annexure A – Registration – Application form
- 13.2 Annexure B
- 13.3 Annexure C – Appeals procedure
- 13.4 Annexure D – Offences and penalties