



**Western Cape
Government**

Agriculture

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AGRICULTURAL PRODUCT STANDARDS ACT

REGULATIONS RELATING TO THE PROTECTION OF GIs USED ON AGRIC
PRODUCTS FOR SALE IN RSA

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COLLEGE

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OUTLINE

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THE SCOPE OF THE APS ACT AND LINK TO GIs



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THE SCOPE OF THE APS ACT & THE LINK TO THE GIs

1. The Agricultural Product Standards Act 1990, (Act No. 119 of 1990) ('APS Act') and its subordinate legislation/ regulations are administered by the Department of Agriculture, Forestry and Fisheries (DAFF). The long title of the APS Act reads as follows:

“To provide for control over the sale and export of certain agricultural products, control over the sale of imported agricultural products; and control over other related products; and for matter connected therewith.”

2. “Product” is defined as follows in the APS Act:

- (a) any commodity of vegetable and 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);”

3. Article 6A of the APS Act provides as follows for the use of geographical indications:

6A. *Prohibition and exemption on use of names –*

(1) *The Minister may, notwithstanding any other agricultural laws relating to a specific product and taking into account the Republic's international obligations, by notice in the Gazette, prohibit the use of specified geographical or other names, or terms in connection with the sale or export of a specified product, on such conditions as may be specified in such notice.*

(2) *A prohibition issued under subsection (1) shall also apply where the geographical name in question -*

- (a) *is used in connection with an indication of the true origin of the product in question;*
- (b) *is used in translation; or*
- (c) *is used together with words such as "kind", "type", "style", "imitation" or similar words or expressions.*

THE SCOPE CONT.

4. Agricultural products destined for sale on the local market for which regulations have been established (promulgated) under the APS Act (as on 24 February 2017):

Fresh Fruit	Fresh Vegetables	Agronomy Products	Processed Products	Animal products
Apples	Garlic	Canola	Canned fruit	Dairy & Imitation dairy products
Apricots	Onions & Shallots	Dry beans	Canned vegetables	Edible Ices
Avocados	Potatoes	Groundnuts	Canned pasta	Eggs
Citrus Fruit	Tomatoes	Maize & Maize products	Canned mushrooms	Mohair
Grapes	Various other vegetables	Malting Barley	Dried fruit	Poultry meat
Litchis		Rice	Fat spreads	Red meat (beef, sheep, goat, pork)
Peaches & Nectarines		Soya Beans	Fruit juice and – drink products	
Pears		Sorghum	Frozen fruit & vegetables	
Plums & Prunes		Sunflower	Honey	
		Wheat & Wheat products	Jam, Jelly & Marmalade	
			Mayonnaise & salad dressings	
			Rooibos	
			Table olives	
			Vinegar	

PROGRESS MADE



PROGRESS MADE WITH THE DEVELOPMENT OF THE GI REG UNDER THE APS ACT

- The draft regulations made available on 12 Feb 2016 and Sept 2016
- Scope:
 - Apply to the use of registered GIs on agric products that are intended for sale in the RSA and for which regulations have been promulgated under the APS Act only
 - Take into account international agreements regarding the protection of foreign GIs in the RSA.
- Consultation process with stakeholders concluded end of November 2016
- Notification given to the WTO on 16 December 2016 to invite comments from member states. 60 days comment period allowed for until 14 Feb 2017. Comments received from the USA only to which the Department still has to respond.

WAY FORWARD



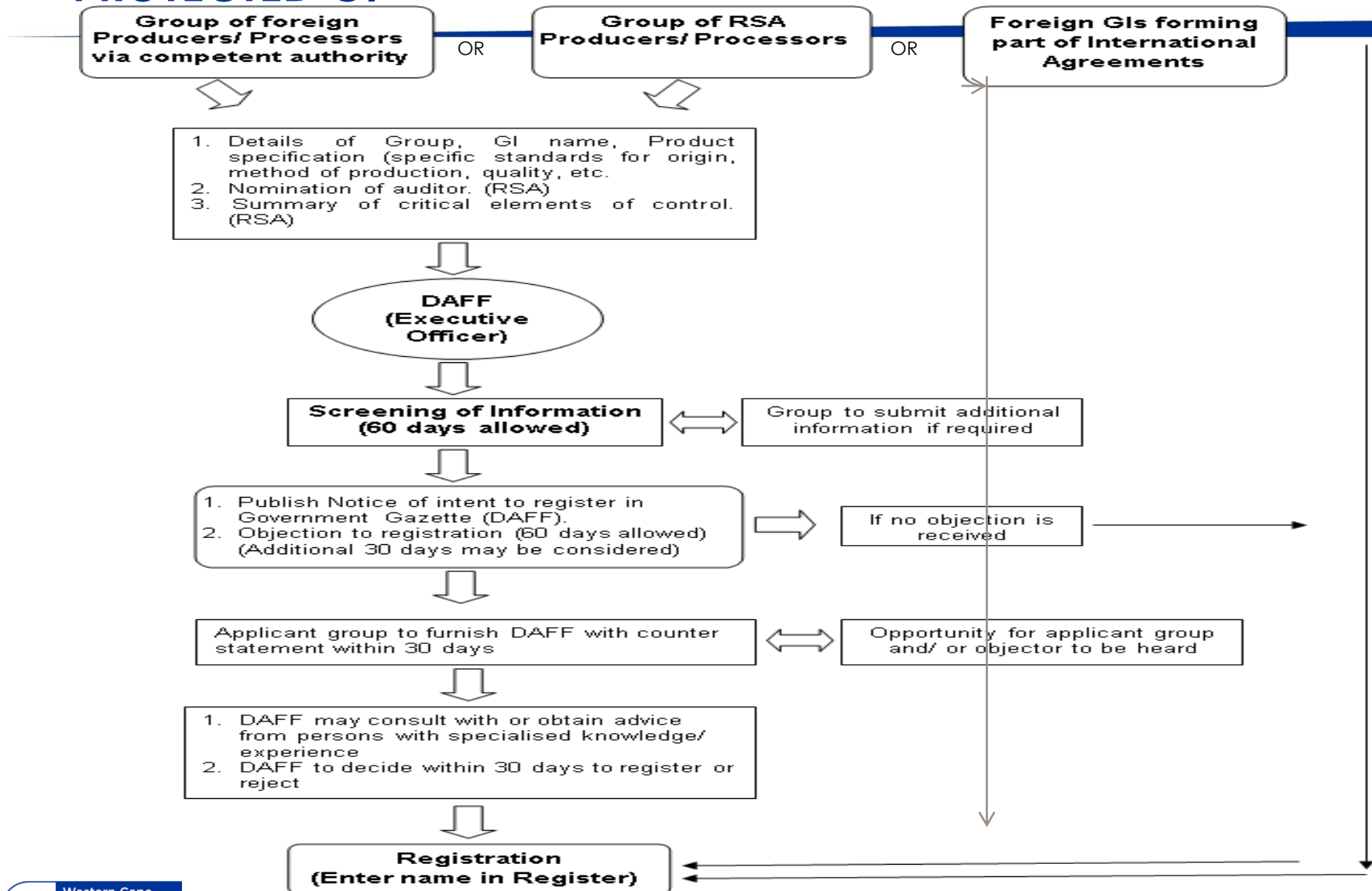
WAY FORWARD

- Obtain Ministerial approval and publication in the Government Gazette.
- Date of coming into effect: Immediately - i.e. on the date of publication in the Government Gazette.
- Interim – Agricultural GIs in EU SADC EPA accommodated under the Merchandise Marks Act of the DTi. (Names published in Government Gazette on 21 October 2016).
- DAFF to ensure that the applicable product specific regulations published under the APS Act are revised to accommodate all registered GIs.
- Development of new regulations under the APS Act is a continuous process. (E.g. edible olives and other vegetable oils, processed meats, coffee, etc.)

FLOW CHART



FLOW CHART: THE APPLICATION PROCESS FOR REG AS A PROTECTED GI



ENVISAGED ENFORCEMENT



THE ENVISAGED ENFORCEMENT

● Auditing of registered South African GIs

- A registered RSA GI shall be subject to audits by the nominated qualified South African auditor to establish compliance with the critical elements of control.
- Conducted at least on a biannual basis, or in accordance with the frequency as mutually agreed between the Executive Officer and the group during registration process.
- The Assignees designated for the agricultural product(s) concerned may visit members of the group and/or the qualified South African auditor nominated by such group from time-to-time.

● Trade control of registered GIs

- Designated Assignees shall during the course of exercising their mandate in the trade for the agricultural product(s) they were appointed ensure that all registered RSA GIs and foreign GIs, including registered foreign GIs that form part of international agreements, enjoys the necessary protection.
- Designated Assignees shall take the appropriate action against any transgressions found as permitted for under the APS Act.
- Assignees designated:
 - PROKON (*potatoes and fresh fruits/ vegetables*)
 - LEAF Services (*grain/ grain products*)
 - SAMIC (*sheep, beef, pork, goat*)
 - Nejahmogul Technologies and Agric Services (*dairy & imitation dairy products, Edible Ices*)
 - Agency for Food Safety (*poultry meat, eggs*)
 - Impumelelo Agribusiness Solutions (*fruit juices and drinks, frozen fruit and vegetables, jam, jelly & marmalade, rooibos, honey, table olives, fat spreads, mayonnaise & salad dressings and vinegar*)

Thank you

Contact Us



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