



National Agricultural  
Marketing Council  
Promoting market access for South African agriculture



# Statutory Measures in South Africa



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# 1. BACKGROUND

In 1937, the National Marketing Council (NMC) was formed to administer the 1937 Marketing Act and to advise the Minister of Agriculture regarding the provisions in the 1937 Marketing Act. The 1968 Marketing Act replaced the 1937 Marketing Act. Approximately three decades later, the 1996 Marketing Act replaced the 1968 Marketing Act. With the promulgation of the 1996 Marketing Act, the name of the NMC changed to the National Agricultural Marketing Council (NAMC). Officially, the NAMC was formed on 7 January 1997 with the mandate to administer the 1996 Marketing Act. The full name of the 1996 Marketing Act is the Marketing of Agricultural Products Act, Act No. 47 of 1996, and the abbreviation for it is MAP Act.





## 2. HISTORICAL OVERVIEW


In the past, when operated in terms of the 1937 and 1968 Marketing Acts, the NMC was part of the Department of Agriculture, Forestry and Fisheries (DAFF). One of the intentions with the promulgation of the MAP Act was that the NAMC should operate at “arms-length” from the Department and it subsequently became a statutory body. This meant that the NAMC will only be administering the MAP Act and thereby serving as an advisory body for the Minister of Agriculture, Fisheries and Forestry.

The MAP Act provided for the closure of the former Control Boards. Deregulation in the agricultural sector was a long process, guided by a number of studies, including the Kassier Report. Together with the 1994 elections, it was inevitable that major changes would take place in all sectors of the economy. Before the promulgation of the MAP Act, the representation on the former Control Boards was dominated by commercial farmers (white) and decisions taken were mainly aimed to benefit this group

After the promulgation, decision-making structures became more representative of the value chain of a specific agricultural sector. Obviously, losing control and then having to share control with other role players in the value chain, compelled commercial farmers to adapt to the new environment.

From the beginning, the NMC / NAMC had a “Council” and a “Secretariat”. Initially the NMC Council had 6 members, but with the promulgation of the MAP Act, the NAMC Council increased to 10 members. Council members, being appointed by the Minister, would approve / oversee the work done by the Secretariat. Previously, the NMC Council members were full-time officials of the Department, but soon after the promulgation of the MAP Act, Council members operated only on a part-time basis.





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While still part of the Department, the NMC Secretariat was structured in terms of the different commodities. The Secretariat had three commodities Divisions, namely an Animal Husbandry Division, a Field Crops Division and a Horticultural Division. These Divisions were supported by the Finance and Administration Division.

After 1997, the NAMC Secretariat became structured in terms of functionalities and created the following Divisions, namely –

- Finance and Administration
- Human Capital
- Statutory Measures
- Markets and Economic Research Centre
- Agri-Business Development, and
- Agricultural Trusts

On 1 January 1999, nine staff members who worked for the NMC while part of the Department were transferred to the NAMC, which became the new employer of the relevant staff. Today, the NAMC has a staff complement of over 70 members.





### 3. *MARKETING OF AGRICULTURAL PRODUCTS ACT*

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Statutory measures constitute certain interventions in the agricultural marketing environment. Statutory Measures refer to compulsory registrations, records and returns, payment of statutory levies, and the control of exports of agricultural products.


These measures are made possible by the Marketing of Agricultural Products Act, No. 47 of 1996 (MAP Act). The MAP Act further stipulates that the Minister shall only consider a request for a statutory measure if the request is not inconsistent with section 2 of the Act. The main objectives of this Act (as set out in section 2) are the following:

- “(a) the increasing of market access for all market participants;
- (b) the promotion of the efficiency of the marketing of agricultural products;
- (c) the optimisation of export earnings from

agricultural products; and  
(d) the enhancement of the viability of the agricultural sector.”

No statutory measure may be detrimental to food security, the number of employment opportunities or to fair labour practices. The following statutory measures are applicable in the South African agricultural sector -

**Registration:** Registration is a statutory measure implemented in some agricultural sectors for the purpose of building a database of industry role players, such as exporters, importers, and processors.



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**Records and returns:** Records and returns are statutory measures that may be implemented for the keeping, collection and dissemination of generic market information. Information is necessary for industry role players to take informed decisions about production and marketing issues in a particular industry.

**Levies:** A statutory levy is a charge per unit of an agricultural commodity at any point in the marketing chain between the producer and the consumer. It is collected for specific functions, such as funding for research, information, and transformation.

Since promulgation, the 1996 MAP Act has been amended twice, in 1997 and in 2001. The 1997 Act was amended inter alia to make provision for certain aspects regarding the transfer of staff from the department to the NAMC. The 2001 amendment made provision inter alia for the auditing of statutory levies by the Auditor- General.





## 4. AGRICULTURAL TRUSTS

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Agricultural Trusts inherited the funds from most of the former Control Boards after the latter had been phased out. Each Trust's activities are guided by the relevant Deed of Trust, which was approved by the Minister when the funds were transferred from the former Control Boards. Most of the Trusts have a 50/50 % representation, which means that the Minister could appoint 50 % of the trustees on the Board of Trustees.

**Since deregulation in 1996, the following Agricultural Trusts were established:**

TRUSTS	DATE ESTABLISHED
Citrus Trust	February 1999
Cotton Trust	September 1997
Deciduous Fruit Industry Development Trust	August 1998
Lucerne Seed Industry Trust	August 1997
Maize Trust	August 2000
Meat Industry Trust	May 1998
Mohair Trust	September 1997
Oil and Protein Seeds Development Trust	October 1997
Potatoe Industry Development Trust	September 2004
Sorghum Trust	February 1999
Wine Industry Trust	December 1998
Winter Cereal Trust	November 1997
Wool Trust	August 1997



## 5. *ROLE OF STATUTORY MEASURES*

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In South Africa, approximately 80 % of total agricultural production is subjected to statutory measures. This is remarkable, especially due to the fact that through legislation, all statutory measures were stopped in the 1990s. For a few years, there were no statutory measures in South Africa. Within 15 years, the usage of statutory measures grew to currently cover approximately 80 % of total agricultural production.

The impact of statutory measures is that they enable each agricultural sector which has obtained approval from the Minister to collect levies to finance generic functions, to register certain identified role players, and to collect and disseminate information. Statutory measures constitute a powerful mechanism for each agricultural sector to:

- organise the industry,
- grow the industry,
- have funds to pay for important functions, and
- increase the competitiveness of the industry.

Around the world, approximately 85 % of developed countries are making use of statutory measures in one way or another. The statutory measure system in South Africa is very much in line with what is happening in the biggest and most developed countries in the world.



## 6. TRANSFORMATION GUIDELINES

One of the conditions for the approval of statutory levies in terms of the MAP Act is that at least 20 % of these funds must be spent on transformation activities. Although the NAMC's transformation guidelines are only applicable to statutory levies collected in terms of the MAP Act, a number of Trusts are also using these guidelines when they spend trust funds.

### Activities regarded as transformation

Pillar	Percentage
1. Enterprise development	More than 50%
2. Skills development	Approximately 20%
3. Employment equity	} Approximately 30%
4. Management control	
5. Preferential procurement	
6. Socio Economic Development	
7. Ownership	

### Activities not regarded as transformation

- General research, information and promotion activities
- Scale-neutral activities
- Training of workers (funded by Agri-Seta)

## 7. WHO MAY APPLY FOR STATUTORY MEASURES?

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The application for the imposition of statutory measures is a voluntary process. However, once a statutory measure is approved by the Minister of Agriculture, Forestry and Fisheries, and promulgated in the *Government Gazette*, it becomes enforceable and legal action may be taken against those who fail to adhere to it.

Any directly affected group in a specific agricultural sector may apply for a statutory measure. A directly affected group is “any group of persons that is party to the production, sale, purchase, processing or consumption of an agricultural product, and includes labour employed in the production or processing of such a product.”

If a directly affected group identifies a need for a specific statutory measure, and support for such an intervention in the specific industry can be proven, an application for such a measure should be made in writing, with the following details included, and be sent to the NAMC:

- The proposed statutory measures and the purpose thereof;
- The agricultural product to which the statutory measure relates;
- The categories of directly affected groups that may be affected by the proposed intervention;
- The geographical areas in which the statutory measure applies;
- The manner in which the objectives of the Act will be furthered;
- The business plan (budgeted income, expenditure and functions to be funded) to be implemented;
- The duration of the statutory measure;
- A suitable vehicle for implementation;
- Inspection and enforcement; and
- Possible financial implications for government.

## 8. STATUS REPORT ON STATUTORY MEASURES

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On a yearly basis, the NAMC releases a survey report covering all statutory measures in South Africa. The survey report provides information on the amounts collected through statutory levies, analyses amounts spent and for what purpose, and the areas of application.

The latest report (2013 Survey Report) indicates that approximately R421.6 million was spent on industry functions – an increase of 13.2% compared with the 2012 survey. Of the total expenditure, approximately 30.7% was spent on research, 23.2% on transformation projects, 9.9% on local consumer education, 14.5% on export promotion, and 10.0% on information.

As part of the 2013 survey, the NAMC obtained information from Agri Benchmark countries concerning the administration of statutory levies in their agricultural sectors. From their responses, it is clear that the administration of statutory levies in South Africa is very much in line with what is happening in the developed countries of the world. An assumption could be made that the way in which the NAMC reports on statutory levies to the Minister is unique, as it could not be found elsewhere in the world.



## 9. CONCLUSION

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Currently, the administration of statutory measures in terms of the MAP Act almost reaches a point of Pareto optimum, in other words, most of the agricultural sectors which wanted to apply for statutory measures, have already done so. A few sectors, such as maize, mohair and wool, inherited sufficient funds from their former Control Boards and at this stage it is not necessary for them to apply for statutory levies. If these funds became insufficient, they might in the future apply for statutory levies in terms of the MAP Act.





# 10. STATUTORY MEASURES DIVISION

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## SENIOR MANAGER: STATUTORY MEASURES- SCHALK BURGER

In January 1988, **Schalk Burger** joined the NMC as an Economist. The NMC became the NAMC in 1997. Initially, he only worked with livestock industries, before he became the Senior Manager of the Statutory Measures Division in 1997.

## LIVESTOCK INDUSTRY- NDUMISO MAZIBUKO

**Ndumiso Mazibuko** joined the NAMC in 2011 as an Agricultural Economist in the Statutory Measures Division, responsible for livestock-related statutory measures investigations, including industry transformation activities. He holds an MSc degree in Agricultural Economics from the North-West University.

## FIELD CROPS INDUSTRY- LIZETTE MELLET

**Lizette Mellet** started at the former NMC, in April 1990. Currently, she is an Agricultural Economist for field crops that include maize, winter cereals, oilseeds, sorghum, lucerne, cotton and pecan nuts. She is also responsible for the administration and meetings of the Crop Estimates Liaison Committee and the Supply and Demand Estimates Committee. She also manages the Register of Directly Affected Groups.

## HORTICULTURE INDUSTRY- MATHILDA VAN DER WALT

**Mathilda van der Walt**, who joined the NAMC in 1997, is an Agricultural Economist responsible for all activities related to the horticulture portfolio (deciduous fruits, citrus, sub-tropical fruit, table grapes, vegetables and wine) within the Statutory Measures Division.



## CONTACT US

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