

No. R. 881

14 November 2014

MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996
(ACT No. 47 OF 1996)**ESTABLISHMENT OF STATUTORY MEASURE: RECORDS AND RETURNS RELATING TO
MACADAMIA TREES AS WELL AS DOMESTIC PRODUCTION, PROCESSING, IMPORTS AND
EXPORTS OF MACADAMIA NUTS**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries, acting under sections 13 and 18 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), hereby establish the statutory measure set out in the Schedule.

SENZENI ZOKWANA,
Minister of Agriculture, Forestry and Fisheries.

SCHEDULE

Definitions

1. In this Schedule any word or expression to which a meaning has been assigned in the Act shall have that meaning, unless the context indicates otherwise:

“**exporter**” means any person that exports macadamias for his own account or, acts as agent on behalf of producers and/or processors or packers of macadamia nuts.

“**grower**” is synonymous with “**producer**” and means any person engaging, in a proprietary capacity, in the commercial production of macadamias.

“**importer**” means an entity which imports macadamias into South Africa for processing, retail distribution or export and includes persons organising imports on behalf of or in the name of another person.

“**macadamias**” means the fruits of the macadamia nut tree species, whether nut in shell or kernel.

“**macadamia industry**” means all participants and role players in the South African macadamia industry.

“**macadamia nursery**” means any person involved in the production of macadamia nut nursery trees, either for own use or sale for commercial gain.

“**Nut in shell consolidator**” means a person that receives macadamia nuts from growers for the purpose of preparing and packing for sale as nut in shell. This definition includes persons that buy nut in shell from growers and /or act as agents for the sale of nut in shell. Growers that sell their own production of nut in shell directly to traders are also included in this definition.

“**person**” means an individual, partnership, company, association or any other business unit.

“**processor**” means a person that sorts, cleans, cracks and processes macadamias, excluding growers that dehusk and dry their own macadamia nut production on farm.

“**The Act**” means the Marketing of Agricultural Products Act, 1996 (Act no. 47 of 1996).

Purpose and aims of statutory measure and the relation thereof to objectives of the Act

2. The purpose and aims of the statutory measure are to compel the parties set out herein to keep records and render returns to the Southern African Macadamia Growers' Association (SAMAC). This is necessary to ensure that continuous, timeous and accurate information relating to the products as defined, is available to all role players in the South African macadamia nut industry. Such information is deemed essential for all role players in order for them to make informed decisions. By prescribing the keeping of records with the rendering of returns on an individual basis, import, domestic market, export and production information of macadamias can be processed and disseminated. In cases where information of individual persons is deemed sensitive, only aggregated information will be disseminated in order to keep the information of individuals confidential.

The establishment of the measure will assist in promoting the efficiency of the marketing of macadamia nuts. The viability of the macadamia industry should thus be enhanced. The measure will not be detrimental to the number of employment opportunities or fair labour practice. Any information obtained will be dealt with in a confidential manner and no sensitive client-specific information will be made available to any party without the prior approval of the party whose rights may be affected.

The measure, as set out in this Schedule will be implemented and administered by SAMAC.

Products to which the statutory measure applies

3. This statutory measure shall apply to macadamias, both locally produced and imported, as well as macadamia trees.

Area in which measure shall apply

4. This measure shall apply in the geographical area of the Republic of South Africa.

Records to be kept and returns to be rendered

5. (1) The following parties shall keep records and furnish returns to SAMAC, as may be required, with regard to macadamia nuts and macadamia trees:
- (a) Nurseries
 - (b) Growers
 - (c) Processors
 - (d) Nut in shell consolidators
 - (e) Importers
 - (f) Exporters
- (2) Records and returns shall in the case of **nurseries**, contain information with regard to the following:
- (a) Number of trees produced in a given period
 - (b) Rootstocks
 - (c) Scion cultivars
 - (d) Geographic distribution of tree sales
- (3) Records and returns shall in the case of **growers**, contain information with regard to the following:
- (a) Number of trees planted
 - (b) Number of hectares planted
 - (c) Tree age
 - (d) Rootstocks
 - (e) Scion cultivars
 - (f) Presence or absence of irrigation systems
 - (g) Crop estimates
- (4) Records and returns shall in the case of **Processors**, contain information with regard to the following:

- (a) Carryover stock from previous seasons
- (b) Forecast intake of nut in shell for a given period
- (c) Intake of nut in shell for a given period
- (d) Forecast kernel production of various styles for a given period
- (e) Kernel stock of various styles not committed for sale for a given period
- (f) Nut in shell shipments by geographic region for a given period
- (g) Kernel shipments by geographic region for a given period
- (h) Sound kernel production
- (i) Details of factors leading to unsound kernel

Processors shall, annually, provide confirmation from their financial auditors that nut in shell intake volumes declared to SAMAC for the previous calendar year, are true and correct. Such confirmations shall be submitted to SAMAC before 30 June of each year

- (5) Records and returns shall in the case of **nut in shell consolidators**, contain information with regard to the following:
- (a) Carryover stock from previous seasons
 - (b) Forecast intake of nut in shell for a given period
 - (c) Intake of nut in shell for a given period
 - (d) Nut in shell shipments by geographic region for a given period
 - (e) Nut in shell stock not committed for sale for a given period

Nut in shell consolidators shall, annually, provide confirmation from their financial auditors that nut in shell intake volumes declared to SAMAC for the previous calendar year, are true and correct. Such confirmations shall be submitted to SAMAC before 30 June of each year

- (6) Records and returns shall in the case of **importers**, contain information with regard to the following:
- (a) Volume of nut in shell imported in a given period
 - (b) Volume of kernel imported in a given period
 - (c) Country of origin of imports
- (7) Records and returns shall in the case of **exporters**, contain information with regard to the following:
- (a) Volume of nut in shell exported in a given period
 - (b) Volume of kernel exported in a given period
 - (c) Geographic region of destination of exports
- (8) The National Department of Agriculture, Forestry and Fisheries or its assignee shall render a copy of all import certificates or furnish the information required by SAMAC contained in such certificates within the period specified in sub-clause (9).

- (9) The records referred to in sub-clauses (2) – (7) shall be rendered on forms obtainable free of charge from SAMAC within 20 days after the end of the month in which the returns have been requested, unless a period of greater than 20 days is specified by SAMAC.

Forms shall be submitted,

- (a) when forwarded by post, to –
SAMAC
PO Box 2714
Tzaneen
0850
- (b) when delivered by hand, be delivered to –
SAMAC c/o Subtrop
Ground Floor, Prosperitas Building
27 Peace Street

Tzaneen
0850

- (c) when sent by telefax, be addressed to -
015 307 6792
- (d) when sent by email , addressed to –
info@subtrop.co.za

Commencement and period of validity

6. This statutory measure shall come into operation on the date of publication thereof and shall lapse 4 years later.