



GOVERNMENT NOTICE

MINISTRY OF AGRICULTURE, WATER AND LAND REFORM

No.

2022

REGULATIONS RELATING TO THE IMPORTATION 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. SCHLETTWEIN, 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 -

“accredited laboratory” means an analytical laboratory which has a valid certificate of accreditation against the ISO/IEC 17025 standard.

“AMID” means the computer system of the Board, named Agricultural Marketing Information Database, or any other database in use by the Board from time to time.

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

“border closure” means the term used to communicate restrictions that have been applied.

“border control inspector” means an employee of the Board with responsibility to verify whether all the requirements of an import permit have been met, prior to clearing controlled products for entry into Namibia.

“border receipt” means a document, issued at the port of entry by the border control inspector, to confirm that the consignment was cleared for entry into Namibia.

“carrying unit” means a ship, shipping container, truck, trailer or any other item, or equipment, used in the conveyance of a controlled product.

“category” means an identifiable product group for which import permits are issued.

“cleared” means the function of ensuring compliance to all import requirements according to these regulations.

“cold storage facilities” means premises where controlled products are stored under temperature-controlled conditions.

“commercial use” controlled products imported for the purpose of trading in Namibia.

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

“conformity assessment body” means a body that performs conformity assessment services and that is formally recognised or appointed by the Board in a foreign country, to assess the producer and the conformity of the product in accordance with the relevant standards and other applicable requirements.

“concession” means the action of granting a relaxation of applicable requirements.

“consignment” means a quantity of product, grouped together by similarity and documented in a single document, showing unambiguous detail contained therein and destined for delivery to a permit holder.

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

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

“food safety” means assurance that a food product is acceptable for human consumption according to its intended use.

“FSMS” means a Food Safety Management System, which is a system based on the principles of HACCP.

“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.

“G.M.P.” means Good Manufacturing Practices, which is the practices required in order to conform to the guidelines recommended by agencies that control the authorization and licensing of the manufacture and sale of food and beverages, cosmetics, pharmaceutical products, dietary supplements, and medical devices.

“HACCP” means Hazard Analysis Critical Control Points, which is a system that identifies, evaluates, and controls hazards, which are significant for food safety.

“hazard” means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect.

“horticultural trading facility” means a premise where controlled products are stored and/or packed for sale to traders.

“importer” means a person, company or entity, who is registered as an importer with the Board and has the intention of importing controlled agronomic and/or horticultural products into the Republic of Namibia.

“inspection” means the determination of conformity to specified requirements.

“inspector” means a person appointed as an Inspector of controlled products by the Board under subsection 1 of Section 13 of the Agronomic Industry Act, 1992 (Act 20 of 1992).

“ISO/IEC 17025” means the standard which specifies the General requirements for the competence of testing and calibration laboratories, as in force from time to time

“landed cost” means the purchase price of the controlled products concerned, including any taxes, duties and transport costs to the final destination in Namibia, payable in respect of the controlled product.

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

“Minister” means the Minister for Agriculture, Water and Land Reform

“M.I.S.” means a Management Information System, which combines data from various sources and produces information to assist the Board in decision-making and statistical reporting.

“M.R.L.” means a Maximum Residue Limit which is the highest level of a pesticide residue that is legally tolerated in or on food.

“MSP” means Market Share Promotion, which requires an importer to comply with sourcing a minimum percentage of local produce, as determined by the Board and published on the website, prior to importing controlled products into Namibia.

“NAB’s Website” means the Namibian Agronomic Board’s website, located at www.nab.com.na.

“port of entry” means the place in Namibia at which a consignment will arrive from a country of export. This could be a sea port, an airport or a border post for road and/or rail imported products.

“NamRA” means the Namibia Revenue Agency.

“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”

“prohibit” means that the sale of an imported product may be prohibited if, in the opinion of the Minister, it constitutes a breach of these regulations, or is considered a food safety threat.

“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.

“restriction” means that the Minister may restrict the importation of certain controlled products at times when local production can fulfil the national market demand. Also referred to as “border closure”.

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

“surveillance” means systematic iteration of conformity assessment activities as a basis for maintaining the validity of the statement of conformity.

“surveillance inspection” means the action of inspecting controlled products after initial approval and before being purchased by end consumers.

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

“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.

2. PURPOSE (OBJECTIVE)

The purpose of these regulations is to ensure that all controlled products, imported into the Republic of 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 imported into the Republic of Namibia for commercial use and specifically for human consumption, whether by sea, land, air or road.

4. REQUIREMENTS UNDER THIS REGULATION

4.1 Registration as an importer of controlled products

- 4.1.1 All importers 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 Importers of horticultural products shall hold a valid certificate of registration for a horticultural trading facility, where applicable.
- 4.1.3 Importers of controlled grain crops shall hold a valid certificate of registration as miller.
- 4.1.4 In terms of section 10(k)(ii) of the Agronomic Industry Act, (Act 20 of 1992) an entity engaged in the production, processing, storage, and marketing of controlled products shall be required to submit specified information to the Board.

4.2 Import Permits

- 4.2.1 Registered importers shall be required to comply with the MSP requirements as a condition to qualify for an import permit.
- 4.2.2 Registered importers shall have a valid import permit, issued by the Board after successful application through the online platform, for all controlled products intended for import into the Republic of Namibia.
- 4.2.3 At the end of the permit period, the importer shall be re-assessed by the Board to determine whether the entity has complied with the MSP requirements, to confirm continued issuance of import permits to the importer.

4.3 Inspection

- 4.3.1 At the port of entry the Border Control Inspector shall verify the documentation of all consignments of controlled products to ensure that these regulations and other permit conditions are complied with.
- 4.3.2 The documentation verification will include:
 - (a) A valid import permit, in the name of the registered importer.
 - (b) Supplier invoice for applicable controlled agronomic and horticultural products, including detail required by the permit.
 - (c) A phyto-sanitary certificate, where applicable.
 - (d) Import Authorisation issued by the competent authority in Namibia.
 - (e) A certificate of conformity, issued by a conformity assessment body in the country of the product's origin.
 - (f) An analytical report on mycotoxins, where applicable, issued by an accredited laboratory.
 - (g) A certified copy of the producers G.A.P. certificate.
 - (h) A certified copy of the FSMS certificate, of the packing facility, in the country of origin, where applicable.
 - (i) A report on pesticide levels from an accredited laboratory in the country of origin of the product, to ensure compliance with M.R.L.'s, where applicable.
 - (j) A grading certificate, where applicable.
 - (k) A GMO declaration, where applicable.
 - (l) 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.

- 4.3.4 The Border Control Inspector at the port of entry will determine whether the consignment meets the requirements of the import permit and these regulations.
- 4.3.5 Border inspection results:
- (a) If the consignment is cleared, a border receipt shall be issued to the importer by the Border Control Inspector as proof of compliance with the permit and these regulations. The consignment will then be authorised to proceed to an offloading point for inland inspection.
 - (b) A copy of the border receipt will be provided to the Namibia Revenue Agency (NamRA) at the port of entry to allow them to clear the consignment.
 - (c) If the consignment is rejected, the consignment will be detained until outstanding requirements have been met, or disposal instructions have been formalised by the importer.
 - (d) The Border Control Inspector will inform NamRA of the rejection.
- 4.3.6 The Border Control Inspector shall seal the approved carrying unit at the port of entry, and the seal shall be broken at the offloading point in the presence of the Compliance Inspector.
- 4.3.7 Controlled agronomic and horticultural products shall be transported in clean, enclosed trucks or trailers to avoid contamination, which could compromise quality and food safety.
- 4.3.8 The consignment will be inspected at the inland offloading point by the Compliance Inspector.
- 4.3.9 The facility, where imported controlled products will be stored, shall have a valid certificate of conformity for a horticultural trading facility issued by the Board, and a certificate of fitness, issued by the local authority in the respective jurisdiction. Cold storage facilities shall have an additional certificate of registration from Board, for the handling of perishable products.
- 4.3.10 Inspection results will be recorded and:
- (a) Used to determine fitness for consumption or processing in Namibia.
 - (b) Integrated into the M.I.S.
 - (c) Retained for a minimum period of three (3) years.
- 4.3.11 On approval of the consignment, the Compliance Inspector will issue a certificate of approval to the importer, which will authorise the product to continue along the value chain.
- 4.3.12 If the product does not meet the inspection requirements, the consignment – or part thereof - will be rejected.
- 4.3.13 If the consignment, or part thereof is rejected, the Compliance Inspector will issue the importer with a rejection report, clearly identifying the reasons(s) for rejection.
- 4.3.14 The importer will be granted two (2) working days to provide the Board with their intended disposal plan in writing for the products involved, which the Board will review for acceptance.
- 4.3.15 After approval of the disposal plan by the Board, the importer will be granted two (2) calendar days to execute the plan.
- 4.3.16 Legible copies of all documentation used in the inspection process will be collated by the inspector and used for input into the AMID system or any other system in use by the Board from time to time and the M.I.S., where applicable and then filed appropriately for a period of three (3) years.

4.3.17 All documentation relevant to the importation of a controlled product shall be maintained by the importer for three (3) years and information required by Board shall be submitted without delay.

4.4 Requirements pertaining to the importation of controlled products for animal feed

4.4.1 Importers of controlled grain crops (white maize, wheat and pearl millet) for the purpose of animal feed shall be required to obtain an import permit from the Board, as a condition to import.

5. WITHDRAWAL OF REGISTRATION

5.1 Registration as an importer will be withdrawn if:

- (a) The registered importer is found guilty of an offence in accordance with clause 11 of these regulations.
- (b) The registered importer is declared insolvent in terms of the Insolvency Act (Act 24 of 1936).
- (c) The registered entity ceases to exist, or the individual, who is registered, passes away.
- (d) If the importer fails to pay outstanding debt to the Board.
- (e) Found to be importing inferior quality products, or products which are proven to be unsafe for human consumption.

6. SURVEILLANCE

- 6.1 Surveillance inspections will be carried out by Compliance Inspectors to verify that the imported product is handled and stored in a manner to ensure continued food quality and food safety.
- 6.2 These surveillance inspections will either be planned with the storage, or retail facility, or could be unannounced. This decision is entirely at the discretion of the Board.
- 6.3 Surveillance inspections could attract inspection costs and possibly travel, meal and accommodation costs, depending on the nature of inspection and the location of the inspection point.
- 6.4 Importers are required to have traceability systems in place to ensure that products, which are found to pose a food safety risk during surveillance inspection or by any other method, can easily be located and withdrawn from their places on retail shelves or in storage.

7. LEVIES & FEES

Levies and fees to be paid by the importer of controlled products shall be as follows:

- 7.1 Importers of controlled products shall be required to pay a general levy to the Board, which is a percentage of the landed cost, as prescribed and published in the Government Gazette from time to time.

- 7.2 Fees shall be charged for the application and issuance of import permit for controlled products as determined by the Board from time to time, where applicable.
- 7.3 Additional fees for inspection, product sampling and testing analysis shall be charged to the importer, if and when the regulator has to conduct surveillance inspection for the purpose of confirming continuous compliance, as determined from time to time.
- 7.4 Where applicable, for the purpose of surveillance inspection, the costs associated with travel and accommodation shall be charged to the importer.

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 Importers shall respect the confidentiality requirements involved in import 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

- 9.1 The following controlled products are not allowed to be imported into Namibia for commercial trading, unless by special concession of the Board:
 - (a) White maize meal,
 - (b) Wheat flour, and
 - (c) Pearl millet flour.

10. RESTRICTIONS

- 10.1 Import restrictions may apply to individual controlled products, groups of controlled products, class, grade and/or specific size groups of controlled products.
- 10.2 The Board will publish restrictions on their website on a regular basis.
- 10.3 Permits will not be issued for controlled products under restriction and those which are planned for restriction within the duration of the requested permit application.

11. OFFENCES & PENALTIES

- 11.1 If a person imports controlled agronomic and/or horticultural products that does not comply with this regulation, the person 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, (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 table 13.3 – Annexure C.

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, (Act 20 of 1992) and the Appeals Procedure.

13. ANNEXURES

- 13.1 Annexure A – Registration as an importer – Application form
- 13.2 Annexure B- Appeals procedure
- 13.3 Annexure C - Offences and Penalties