

GOVERNMENT NOTICE

DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

No. R. 727

20 August 2010

MARKETING OF AGRICULTURAL PRODUCTS ACT, 1996

(ACT No. 47 OF 1996)

ESTABLISHMENT OF STATUTORY MEASURE AND

DETERMINATION OF GUIDELINE PRICES:

LEVY RELATING TO WHEAT, BARLEY AND OATS

I, Tina Joemat-Pettersson, Minister of Agriculture, Forestry and Fisheries, acting under sections 13 and 15 of the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996), hereby-

- (a) establish the statutory measure set out in the Schedule hereto;
- (b) determine the guideline price, per metric ton, for –
 - (i) wheat as R2 457;
 - (ii) barley as R2 195 and
 - (iii) oats as R1 700.

**TINA JOEMAT-PETTERSSON,
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, and unless the context otherwise indicates-

“approved silo owner” means a silo owner approved by the Clearing House;

“Clearing House” means Safex Clearing Company (Pty) Ltd or any other body corporate or unincorporated association or department of the JSE Securities Exchange South Africa recognised by the Registrar of Financial Markets;

“barley” means the kernels of the genus *Hordeum*;

“importer” means any person who imports winter cereal from another country into the Republic of South Africa;

“oats” means the kernels of the genus *Avena*;

“producer” means a person who produces winter cereal or a person on who's behalf winter cereal is produced;

“SAFEX” means the South African Futures Exchange;

“SAFEX silo receipt” means a transfer document, utilised as symbolic delivery of the underlying product, issued by an approved silo owner in the form prescribed and on the terms set out in the SAFEX Futures Contract;

“SAGIS” means the South African Grain Information Service, an association not for gain incorporated under section 21 of the Companies Act, 1973 (Act No. 61 of 1973);

“the Act” means the Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996);

“the Trust” means the Winter Cereal Trust, Registration No. IT 11410/97;

“wheat” means the kernels of the species *Triticum aestivum*; and

“winter cereal” means wheat, barley and oats.

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

2. The purpose and aims of this statutory measure are to provide financial support to the winter cereal information and research functions that the winter cereal industry has identified as essential and in the interest of the industry as a whole.

The maintenance of macro industry information is deemed essential for strategic planning purposes by the winter cereal industry and directly affected groups. The supplying of generic market information to all role-players, on a continuous basis, is critical in order for the market to operate effectively.

The winter cereal industry supports the principle that generic market information be obtained by means of statutory measures in terms of the Act, and that SAGIS should be the official vehicle to achieve this. SAGIS also operates as official information service for the maize, sorghum and oilseeds industries. A statutory levy is required to ensure that the winter cereal industry also shares in the gathering and dissemination of proper market information.

Proper and accurate winter cereal market information that is provided continuously and timeously, will not only increase market access for all participants, but will also promote efficiency in the marketing of winter cereal and winter cereal products. Proper market information will furthermore enhance the viability of the winter cereal industry and the agricultural sector at large. Market information will also enhance food security, as the information on national stock levels of winter cereals will be available for the market to function properly.

The agricultural sector is expected to ensure food security, strengthen the economy and create job opportunities. This can be reconciled with the provisions of Section 2(3) of the Act. In order to achieve these aims and to further the competitive position of the winter cereal industry continued research is essential.

According to experts in the field of research, the performance of the South African agricultural sector, despite the lack of high-potential arable land, could to a great extent be attributed to the development and application of agricultural research results. The complex interaction between behavioural patterns of crops and external factors affecting them such as disease and pests, often impacts negatively on production and quality, thus creating an urgent demand for new technology in order to keep the agricultural sector profitable. Account should also be taken of consumer preferences within the market.

Specific infrastructure has been created over time in respect of research and it is essential that this infrastructure be retained and maintained to the benefit of the winter cereal industry.

For the optimisation of export earnings it is essential that South African products conform to international quality standards. Researchers and breeders must ensure that locally produced winter cereal is fully competitive on the international markets.

A portion of the funds collected by means of this levy will be focussed on small-scale farmers and the developing winter cereal industry.

An increase in research applications have been experienced by the Winter Cereal Trust over the past years, which could not be accommodated within the available funds of the Trust. An increase of the available funds is therefore required to partly compensate for the diminished funds available for research and also to make provision for new research projects to be funded. However, the calculation of a continued levy and the budget of the Winter Cereal Trust are dependent on Government continuing to fund its proportion of winter cereal research.

An increase in the levy over the next four years is needed to allow for inflation and for the funds to remain on par with the industry's requirements. An average levy amount over the next four year period, however, will imply a significant increase in the levy amount, whereas an increasing levy per year alleviates the initial increase to some extent. It is therefore preferable to have different, but fixed levy amounts published in respect of each year rather than to publish an average levy or a percentage with which such an average levy is to increase annually.

The leviable tonnage of winter cereal is expected to increase annually over the next four years.

Product to which statutory measure applies

3. This statutory measure shall apply to winter cereal.

Area in which statutory measure applies

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

Imposition of levy

5. A levy is hereby imposed on all on all winter cereal -
 - (a) sold by or on behalf of the producer thereof;
 - (b) imported into the Republic of South Africa;
 - (c) processed or converted or caused to be processed or converted into a winter cereal product, by or on behalf of the producer thereof, if the winter cereal product is intended to be disposed of;
 - (d) exported from the Republic of South Africa if the levy in respect of such winter cereal has not been paid in terms of paragraph (a), (b) or (e); and
 - (e) in respect of which a SAFEX silo receipt has been issued if the levy in respect of such winter cereal has not been paid in terms of paragraph (a) or (b).

Amount of levy

6. The amounts of the levies (excluding VAT) will be as follows:
- | | | |
|--------|------------------------|-----------------------|
| Wheat | 1/10/2010 to 30/9/2011 | R14-00 per metric ton |
| | 1/10/2011 to 30/9/2012 | R15-00 per metric ton |
| | 1/10/2012 to 30/9/2013 | R16-00 per metric ton |
| | 1/10/2013 to 30/9/2014 | R17-00 per metric ton |
| Barley | 1/10/2010 to 30/9/2011 | R13-00 per metric ton |
| | 1/10/2011 to 30/9/2012 | R14-00 per metric ton |
| | 1/10/2012 to 30/9/2013 | R15-00 per metric ton |
| | 1/10/2013 to 30/9/2014 | R16-00 per metric ton |
| Oats | 1/10/2010 to 30/9/2011 | R10-00 per metric ton |
| | 1/10/2011 to 30/9/2012 | R11-00 per metric ton |
| | 1/10/2012 to 30/9/2013 | R12-00 per metric ton |
| | 1/10/2013 to 30/9/2014 | R13-00 per metric ton |

Persons by whom levy is payable

7. (1) The levy payable in terms of clause 5 shall be payable—
- (a) in the case of a levy contemplated in clause 5(a), be payable by the buyer of the winter cereal;
 - (b) in the case of a levy contemplated in clause 5(b), be payable by:
 - (i) the buyer of the winter cereal where the winter cereal is sold by the importer; and
 - (ii) the importer of the winter cereal where the importer is also the processor thereof;
 - (c) in the case of a levy contemplated in clause 5(c), be payable by the processor or converter of the winter cereal; [and]
 - (d) in the case of a levy contemplated in clause 5(d), be payable by the exporter of winter cereal; and
 - (e) in the case of a levy contemplated in clause 5(e), be payable by the person issuing such SAFEX silo receipt.

- (2) The amount of the levy payable by the buyer in terms of subclause (1)(a) and (b)(i) may be deducted from the purchase price payable to the producer or the importer, respectively.
- (3) The amount of the levy payable by the person issuing the SAFEX silo receipt in terms of sub-clause 1(e) may be recovered from the person to whom such SAFEX silo receipt is issued.

Payment of levy

- 8.(1) Payment of a levy imposed in terms of clause 5 shall be made by the persons contemplated in clause 7, not later than the last day of the month following in which the winter cereal was purchased, processed, converted, exported or for which a SAFEX silo receipt was issued.
- (2) Payment shall be made in favour of the Winter Cereal Trust.
- (3) Payment shall –
 - (a) when forwarded by post, be addressed to
The Administrator
Winter Cereal Trust
P.O. Box 7088
CENTURION
0046
 - (b) when delivered by hand, be delivered to -
The Administrator
Winter Cereal Trust
Embankment Park
194 Kwikkie Crescent
CENTURION

Administration of statutory measure

9. The statutory measure shall be administered by the Winter Cereal Trust. Approximately 70% of levy income will be spent on core activities (research and information functions), not more than 10% on administration and 20% on

transformation (development of emerging farmers). The levies shall be accounted for, in a manner and to the extent acceptable to the Auditor-General, separately from any other funds or assets under the control of the Winter Cereal Trust. Annual audited financial statements will be submitted to the National Agricultural Marketing Council and the Auditor-General, with the percentage allocated towards transformation clearly indicated and accompanied by a report stating how the objectives of the levy have been met. Any deficit at the date of termination of this statutory measure shall be for the account of the Winter Cereal Trust. The Minister of Agriculture, Forestry and Fisheries shall decide on the application of any surplus levies at the date of termination of the statutory measure.

Commencement and period of validity

10. (1) This statutory measure shall come into operation on 1 October 2010 and shall lapse on 30 September 2014.
- (2) Notwithstanding the provisions of sub-clause (1), the Minister may, after evaluation and review of the measure under section 9(1)(f) of the Act, by notice in the Government Gazette determine that the measure shall lapse on a date specified in that notice: Provided that such date shall not be later than the date determined under sub-clause (1).