

THIRD DRAFT

DEPARTMENT OF AGRICULTURE

No. R.

AGRICULTURAL PRODUCT STANDARDS ACT, 1990
(ACT No. 119 OF 1990)

REGULATIONS REGARDING CONTROL OVER THE SALE OF FREE RANGE EGGS AND POULTRY MEAT AND BARN EGGS IN THE REPUBLIC OF SOUTH AFRICA

The Minister of Agriculture has under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) --

- (a) made the regulations in the Schedule; and
- (b) determined that the said regulations shall come into operation two months after date of publication thereof.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have that meaning, and --

"approve/approved" means the procedure by which the Executive Officer evaluates and gives a formal recognition that the inspection and certification programme of a certifying organisation complies with the requirements of these regulations;

"barn" means a product which has been produced and handled in compliance with the requirements of these regulations except for the requirements for the external environment and external range which are not applicable;

"audit" means a systematic and functionally independent examination to determine whether activities and related results comply with planned objectives;

"bird" means an animal complying to the definition of "poultry";

"certification" means the procedure by which approved certifying organisations provide written or equivalent assurance that a product, process or service is in conformity with certain standards;

"certification mark" means a mark or a symbol, that has been registered by the Executive Officer, used by an approved certifying organisation to indicate that compliance with these regulations has been verified;

"certification programme" means an approved system of rules, procedures and management for carrying out certification;

"certifying organisation" means an organisation performing certification;

"eggs" means the eggs of the species *Gallus domesticus* (domesticated fowls), *Meleagrus gallapavo* (turkeys) and *Anas* (ducks and muscovies);

"Executive Officer" means the officer designated under section 2(1) of the Act;

"free range" means a product which has been produced and handled in compliance with the requirements of these regulations;

THIRD DRAFT

"**inspection**" means the examination of food systems for control of food, raw material, production, processing, and distribution including in-process and finished product testing, in order to verify that they conform to requirements;

"**labelling**" means any written, printed or graphic representation that is present on the label of a product, accompanies the product or is displayed near the product;

"**operation**" means a farm, production unit or project involved in the production of free range and/or barn products;

"**operator**" means any person who is involved at any stage of the chain of production, processing, storage, packaging, transporting, retailing, displaying, importing and marketing of free range and/or barn products;

"**poultry**" means the species *Gallus domesticus* (domesticated fowls), *Meleagrus gallapavo* (turkeys) and *Anas* (ducks and muscovies);

"**poultry meat**" means the slaughtered carcasses of poultry;

"**product/products**" in the case of free range, means eggs (both in and out of shell) and poultry meat, and in the case of barn, means eggs (both in and out of shell); and

"**the Act**" means the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990).

Scope of these regulations

2. (1) These regulations apply to products which carry, or are intended to carry, descriptive labelling referring to "free range" and "barn".

(2) These regulations are in addition to and not in substitution of any other relevant legislation applicable to the products concerned.

Restriction on the sale of free range and barn products

3. (1) No person shall sell free range and barn products in the Republic of South Africa --
- (a) unless such products comply with the general management practices referred to in regulation 4;
 - (b) unless such products were produced under the feeding requirements referred to in regulation 5;
 - (c) (i) unless, for free range products the environmental requirements referred to in regulations 6(1) and (2) are complied with; and
(ii) unless, for barn products the environmental requirements referred to in regulation 6(1) are complied with;
 - (d) unless record keeping as referred to in regulation 7, is complied with;
 - (e) unless such products comply with the processing and handling practises referred to in regulation 8;
 - (f) unless such products are labelled and marked in the manner referred to in regulation 9; and
 - (g) unless such products have been inspected and/or certified as referred to in regulation 10.

THIRD DRAFT

(2) The executive officer may exempt a person in writing, entirely or partially and on such conditions as he or she deems necessary, from the provisions of subregulation (1).

General management practices for free range and barn

4. (1) Free range egg or broiler and barn egg stock may not be confined in cage production systems.

(2) Layers must be introduced to the free range and barn system at no later than 130 days of age and broilers no later than 21 days of age to the free range system.

(3) Free range stock –

(i) must have access to an external range for a minimum of 6 hours per day, during natural daylight hours: Provided that access may be restricted during extreme weather conditions; and

(ii) access to the external range should be provided by means of doors, gates or popholes: Provided that when popholes are used, these should be provided at the rate of at least one pophole per 700 birds and be of a minimum size of 100 cm wide and 40 cm high.

(4) Moulting shall not be artificially induced in any free range and barn flocks.

Feeding requirements for free range and barn

5. (1) Food

(a) Access to food, providing an appropriate wholesome diet, must be freely available, unless specifically prescribed to the contrary by an attending veterinary surgeon.

(b) Either mechanical or manual feed distribution systems are acceptable.

(c) When using chain, trough or box feeders, which can be accessed from both sides, then a maximum of one adult free range or barn hen per 3 cm of feeder length may be housed and when only one side is accessible, then 6 cm per hen must be provided: Provided that where less than 3 cm or 6 cm of feeder space per hen is available, then the frequency of feed distribution should be increased to ensure that feed is freely available to all birds during daylight hours.

(d) When pan or tube feeders are used, a maximum of 40 adult free range or barn hens per feeder may be housed: Provided that in the case of free range broilers, one pan feeder of 330 mm diameter may cater for a maximum of 70 birds.

(2) Water

(a) Water must be available at all times, unless otherwise prescribed by an attending veterinary surgeon.

(b) Water must be clean and fresh and dispensed in a manner which minimises water spillage.

(c) When bell-type drinkers are provided, 100 adult free range or barn hens or 120 free range broilers may be serviced per single bell drinker.

THIRD DRAFT

- (d) Where nipples are used, 10 adult free range or barn hens or 12 free range broilers may be serviced per single nipple.
- (e) In pens containing less than 100 birds, access to at least 2 drinkers must be provided.
- (f) When conditions so dictate, adequate provision must be made for the continuous supply of water in sub-zero temperatures.

Environmental requirements for free range and barn

- 6. (1) Internal ("The Chicken House") – for free range and barn
 - (a) The chicken house must be so constructed that it provides for the welfare needs of the birds, whilst simultaneously providing protection from inclement weather conditions and both physical and thermal discomfort.
 - (b) Flooring used must allow for effective cleaning: Provided that concrete floors are preferred.
 - (c) When open-type housing structures in excess of 6 metres wide are used, provision should be made for adequate ventilation: Provided that mechanical assistance to natural ventilation (e.g. fans) is an acceptable practice.
 - (d) Where housing is predominantly enclosed, ventilation by fans with a minimum airflow of 8 cubic metres per hour per adult hen is required.
 - (e) When slats are used litter may be reduced to 33% of the floor area: Provided that such litter is sufficient quality and quantity to allow for the proper dilution of droppings and to allow birds to dust bathe.
 - (f) Stocking densities must be adequate to accommodate the birds' normal behaviour and --
 - (i) a maximum stocking density of 10 adult free range and barn hens per square metre of available floor space is permitted: Provided that such floor space shall exclude the area occupied by the egg collection/service area and in addition, shall exclude the area occupied by the enclosed portion of nest boxes where effective access to the area directly below is prevented; and
 - (ii) for free range broiler flocks, a maximum stocking density of 15 birds per square metre of available floor space is permitted.
 - (g) In houses with appropriate perching(roosting) facilities, stocking densities may be increased to 12 birds per square metre: Provided that such perches must be provided at not less than 10 cm per free range and barn hen and the horizontal distance between perches must be at least 30 cm and between the perch and the wall must be at least 20 cm: Provided further that the perches can include the alighting rail immediately in front of nest boxes, where applicable (a gap of no less than 1,5 cm on either side of the alighting rail must be available in order to allow hens to grip the rail without injury to their claws).
 - (h) Adequate nesting facilities must be provided (egg production only) in order to discourage free range and barn hens from laying eggs on the floor: Provided that when individual nest boxes are provided, this should not be less than 1

THIRD DRAFT

nest per 8 hens and when communal nests are provided, this should not be less than 1 square metre nest floor per 125 adult free range or barn hens.

- (i) A lighting system for the provision of a minimum period of 9 hours continuous light in each period of 24 hours must be provided: Provided that such light may either be artificial or via access to daylight and a minimum light intensity of 10 lux throughout the house during this time must be maintained.
 - (j) A minimum period of 8 hours continuous darkness per 24 hour cycle must be provided in order to accommodate the birds' requirement for adequate rest.
- (2) External ("The Range") – for free range only
- (a) The stocking rate of the external range shall not exceed 5 birds per square metre.
 - (b) The range must be maintained in a manner, which allows for a minimum of 50% living vegetation present at all times: Provided that certain climatic conditions and locations may cause this vegetation not always to be green, but that this should be the objective: Provided further that the practice of rotation grazing is a desirable management tool.
 - (c) External shade by way of either trees or artificial structures must be provided at the rate of 4 square metres shade per 1 000 birds.
 - (d) Fencing and housing shall be adequate to provide protection from predators.

Record keeping requirements for free range and barn

7. (1) For verification purposes, a notice must be displayed at the entrance of each chicken house depicting the following information:

- (a) Total floor area available to the birds.
- (b) Total number of drinkers.
- (c) Total feeder space available.
- (d) Total number of nests (egg production only).
- (e) Area of external range (free range only).
- (f) Maximum bird stocking capacity.

(2) Suitable records of all sales of all free range and barn products to be retained for a minimum period of 18 months to allow for audited correlation of production versus sales as required from time to time.

Processing, handling, packaging, storage, distribution and retailing practices for free range and barn

8. (1) Free range and barn products shall be prevented from being mixed with non-free range and barn products during processing, handling, packaging, storage, distribution and retailing.

(2) All free range and barn products shall be adequately identified throughout the whole process.

Labelling and marking requirements for free range and barn

THIRD DRAFT

9. (1) Free range and barn products may be marked as "free range" or "barn": Provided that--

- (i) the product consists of only free range or barn products; and
- (ii) the expression is indicated in letters of the same size, type and colour.

(2) An indication that products are covered by an inspection scheme and/or a certification mark, as indicated in regulation 10, may appear on the labels of the products.

(3) Products complying to these regulations which are not in final packaging may be transported to other premises only in appropriate packaging or containers which are adequately labelled and identified.

(4) No wording, mark, illustration, depiction or any other method of expression that constitutes a misrepresentation or directly or by implication creates or may create a misleading impression regarding the quality, nature, origin or composition of free range and barn products shall be marked on a container of such products.

Inspection and certification of free range and barn

10. (1) The Executive Officer shall be responsible for regulating the inspection of free range and barn products.

(2) Each free range and barn operator must be certified by an approved certifying organisation.

(3) Only approved certifying organisations, complying with the requirements of regulation 11, shall inspect and certify free range and barn products.

(4) Inspection shall include the whole system (from production to market).

(5) Imported products shall be subject to approval by the Executive Officer: Provided that the importer supply proof to the Executive Officer that the lot designated --

- (a) was obtained within a system of production applying standards at least equivalent to those indicated in these regulations; or
- (b) was subject to a system of inspection and certification recognised as equivalent to that prescribed in these regulations.

Inspection and certification programme

11. (1) In order to become an approved certifying organisation, an organisation must make an application to the Executive Officer.

(2) A certifying organisation shall have a detailed free range or barn operation manual, based on the interpretation of the specifications of these regulations, which shall be subject to approval by the Executive Officer: Provided that the free range or barn operation manual may form part of the documented management system of the organisation mentioned in subregulation (3).

(3) For an organisation to become an approved certifying organisation, the following documented system also has to be complied with:

- (a) a management system which describes the operation of the organisation including:

THIRD DRAFT

- (i) a regular internal audit and management review programme;
 - (ii) maintenance of an appeal and complaints procedure; and
 - (iii) the inspection procedures to be used, including a detailed description of the inspection measures and precautions which the organisation undertakes to impose on operators subject to its inspection.
- (b) the actions which the organisation intends to take where irregularities are found.
- (c) the availability of appropriate resources in the form of qualified staff, administrative and technical facilities, inspection competence and reliability;
- (d) the objectivity, impartiality and transparency of the organisation with respect to the operators subject to its inspection; and
- (e) the “general requirements for bodies operating product certification systems” as given in ISO/IEC GUIDE 65:1996.
- (4) Before and after an organisation has become an approved certifying organisation the Executive Officer shall --
- (a) ensure that the inspections and decision-making procedures carried out by the organisation are objective;
 - (b) verify the effectiveness of the organisation's inspections; and
 - (c) withdraw the approval of any certifying organisation where it fails to satisfy the requirements referred to in these regulations.
- (5) An approved certifying organisation shall --
- (a) send to the Executive Officer, for compliance purposes only by 30 April each year a list of operators subject to their inspection on 31 March of the same year;
 - (b) present to the Executive Officer a concise annual report;
 - (c) not disclose information and data it obtains in its inspection activities other than to the operator responsible for the undertaking concerned and, on a confidential basis to the Executive Officer;
 - (d) make available to the Executive Officer, for audit purposes access to offices and facilities together with all information and assistance deemed necessary to establish compliance with these regulations; and
 - (e) be subject to auditing by the Executive Officer.

THIRD DRAFT

(6) In order for an operator to apply for certification by an approved certifying organisation, a formal application form, requesting relevant information, shall be used.

(7) The approved certifying organisation shall ensure that an applicant signs an undertaking to carry out the requirements in accordance with these regulations.

(8) The approved certifying organisation shall prescribe the keeping of up to date records covering production, processing, handling, transport, storage and sale of free range and barn products as well as documentary accounts to enable the approved certifying organisation to trace the origin, nature and quantities of all raw material brought in and the use of such materials, including the nature, quantities and consignees of all free range and barn certified agricultural products.

(9) The operator must undertake to give the inspector free access to the production, processing, packaging, storage and retailing area and premises as well as to the accounts and relevant supporting documents deemed necessary for the purposes of the inspection.

(10) Apart from annual full physical inspections in accordance with its rules of operation, an approved certification organisation must make unannounced inspection visits to at least 15% of the units as well.

(11) The approved certifying organisation shall be required to undertake at least the following for inspection --

- (a) with the operator, draw up a full description of the operation, showing the storage and production premises and land parcels and/or collection areas, livestock buildings, pastures and open-air exercise areas, packaging and processing areas and any other description that may be relevant in ensuring compliance with the provisions of these regulations;
- (b) with the operator, draw up all the practical measures to be taken by the operator at operation-level to ensure compliance with the provisions of these regulations;
- (c) review the questionnaire with the operator noting any misunderstandings, discrepancies, or deviations from the original application;
- (d) inspect the operations, storage, handling and marketing facilities;
- (e) include in the inspection the production units, storage premises, processing areas and inputs of products not produced according to the provisions of these regulations and ensure that these products are adequately separated from free range and barn products throughout the whole process;
- (f) ensure that written and/or documentary accounts are kept by the operator which enable the approved certifying organisation to trace the origin, nature and quantities of all products, the use of such product and any other records that may be relevant in ensuring compliance with the provisions of these regulations; and
- (g) prepare a detailed inspection report and recommendation.

(12) An approved certifying organisation must --

- (a) ensure that, where a product carries reference to the approved certifying organisation and does not comply with the requirements of these regulations, all non-complying product is removed from sale; and

THIRD DRAFT

- (b) where an infringement is manifested, or an infringement with prolonged effects is found, withdraw from the operator concerned the right to use the labelling indications covered by these regulations for a period which it determines appropriate.

(13) The approved certifying organisation must issue a certificate of inspection stating that the free range product designated in the certificate --

- (a) was obtained within an operation applying the prescribed regulations; and
- (b) was subject to a system of inspection.

Offences and penalties

12. Any person who contravenes or fails to comply with the provisions of these regulations shall be guilty of an offence and upon conviction be liable to a fine or imprisonment in accordance with section 11 of the Act.