

Grain Marketing (Control of Sale of Soya Beans) Regulations, 2021

ARRANGEMENT OF SECTIONS

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IT is hereby notified that the Minister of Lands, Agriculture, Fisheries, Water, and Rural Resettlement has, in terms of section 39 of the Grain Marketing Act [*Chapter 18:14*], made the following regulations:—

Title

1. These regulations may be cited as the Grain Marketing (Control of Sale of Soya Beans) Regulations, 2021.

Application

2. These regulations are additional to any contractual obligations agreed to by a contract farmer and to the extent of any inconsistency with the contracted obligations, these regulations shall prevail.

Interpretation

3. In these regulations—

“agricultural produce” means seasonal or perennial crops, livestock and fisheries produce;

“authorised agency” means any Government parastatal or entity acting on behalf of the government that is involved in the collection, storing, distribution or marketing of agricultural produce and “authorised person” shall be construed accordingly;

“contract farmer” means a farmer who enters into a scheme contract with either the Government or any registered entity or person;

“contract produce” means any agricultural produce that the contract farmer has produced or undertaken to produce to a scheme contract;

“contractor” is any person; company or entity, registered in terms of section 32 of the Act, that enters into a scheme contract with a producer to grow soya beans;

“Grain Marketing Board” means the Grain Marketing Board established by section 3 of the Grain Marketing Act [*Chapter 18:14*];

“Minister” means the Minister responsible for Lands and Agriculture or any other Minister to whom the President may from time to time assign the administration of the Grain Marketing Act;

“producer” means any person, registered in terms of section 32 of the Act, who, by himself or herself or his or her agents, grows soya beans;

“receiving depot” means any place appointed by the Grain Marketing Board in terms of the Grain Marketing Board operations procedures and manual to be a receiving depot;

“scheme contract” means a contract between—

- (a) a contract farmer and the Government of Zimbabwe;
- or

- (b) contract farmer and a registered entity or person contract;

to produce soya beans where under the contractor supplies agricultural inputs in return for the contract farmer delivering the contract produce to the designated delivery points or GMB depots specified in the scheme contract;

“sell” includes to keep, offer, expose, transmit, convey, prepare for sale, barter, exchange or hawk, display or advertise for sale, exchange or dispose for valuable consideration.

“soya beans” means harvested whole seed or crushed but unprocessed and unmanufactured soya bean.

Control of soya beans

4. (1) Subject to these regulations soya beans is a controlled product in terms of section 29 of the Act.

(2) The area within which the product shall be controlled is all the provinces of Zimbabwe.

Sale or delivery of soya beans

5. (1) No person or statutory body or company or entity under a contractual obligation to sell to a contractor or to the Grain Marketing Board shall sell or otherwise dispose of any soya beans except to such contractor or to the Grain Marketing Board.

(2) Any soya beans which is required to be sold to the Grain Marketing Board in terms of this section shall be delivered to the Grain Marketing Board at such time, place, and quantities as the Board may direct and under such terms and conditions as the Grain Marketing Board may provide.

Acquisition and disposal of soya beans

6. (1) No person, statutory body, company or entity shall buy or otherwise acquire any soya beans from a contract farmer without a prior contractual obligation to do so.

(2) No person shall use or dispose of soya beans acquired through the Grain Marketing Board for use as seed otherwise than for the such purpose except with the written permission of the Grain Marketing Board.

(3) A contract farmer is permitted to keep or transport not more than two bags of soya beans of a capacity not exceeding 50 kilograms per bag from one area of the country to the other without any authorisation from the Grain Marketing Board.

(4) A contract farmer is permitted to transport soya beans in excess of that specified under subsection (3) in the following cases—

- (a) where such soya beans are being transported to be sold to the nearest Grain Marketing Board;
- (b) where an authorised person has permitted such soya beans to be transported for any other specified purpose, which authority must be evidenced in writing to any police officer on demand.

(5) With effect from the date of commencement of these regulations, no person other than the Grain Marketing Board shall export from Zimbabwe soya beans of any quantity or any description until such a date that shall be specified by the Minister by way of notice in the *Gazette*.

(6) In order to secure the contracted obligations, a contracted farmer or producer shall deliver contract produce in accordance with the agreed provisions of a scheme contract, or to the Grain Marketing Board.

(7) Where there is reasonable suspicion that soya beans are being sold in contravention of these regulations —

- (a) an authorised person; or
- (b) police officer;

may seize the soya beans in question or seize any vehicle, container, or other property used in connection with the storage or transportation of the soya beans in question as an exhibit in the contemplated prosecution of the offence, in accordance with the provisions of these regulations.

Seizure

7. (1) Subject to section 8 any property seized in contemplation of a prosecution for a contravention of these regulations —

- (a) shall be taken forthwith and delivered to a place of security under the control of a police officer or authorised person:

Provided that fungible property such as grain may be stored by comingling it with other fungible property of the same kind;

- (b) shall be held in custody at the former possessor's risk until —
 - (i) the criminal proceedings in connection with which the property has been seized are abandoned or discontinued or are concluded otherwise than with the conviction of the accused, in which event the custodian inspector or police officer shall forthwith restore such items to the person from whom were seized or to whom they belong, as may be appropriate; or
 - (ii) the criminal proceedings have resulted in the conviction of the accused person, in which event the convicting court may order any such property to be forfeited to the State.

Compensation for soya beans wrongly seized

8. (1) Where soya beans have been wrongly seized, the person to whom the soya beans belong may make an application to the High Court for the payment of compensation.

(2) The application must be made within the period of three months from the date of seizure of such soya beans.

(3) The court may order compensation to be paid to the applicant only if satisfied that—

- (a) the applicant has suffered loss as a result of the seizure;
- (b) there has been a serious default on the part of the authorised agency or person or police officer that made the seizure;
- (c) the seizure would not have been made had the default not occurred.

(4) Where the court orders the payment of compensation—

- (a) the compensation is payable by the authorised agency that made the seizure;
- (b) the amount of compensation to be paid is the amount that the court thinks reasonable, having regard to the loss suffered and any relevant circumstances.

Powers of police officers and authorised persons

9. (1) Subject to section 38 of the Act, a police officer or a person generally or specifically authorised thereto by the Minister may upon giving not less than 24 hours verbal or written notice to the contract farmer, enter and inspect the land or premises of the contract farmer for the purposes of ensuring that the contract produce is being produced in compliance with standards specified in or under the scheme contract.

(2) A police officer, authorised person or inspector must produce on demand a certificate of identification and authority as such before entering any contract farmer's land:

Provided that, if any soya beans seized under these regulations is of such a nature that it cannot reasonably be removed by the person seizing it, he or she shall declare it as having been secured in the place where he or she found it and the provisions of subsection (4) in so far as they apply to the return of the seized soya beans to persons from whose custody they were taken shall apply, *mutatis mutandis*.

(3) A police officer or an authorised person in terms of subsection (1) may obtain a warrant to enter or search any dwelling or house he or she believes on reasonable grounds that evidence relating to a contravention of these regulations is to be found in that dwelling or house.

Unlawful, sale, purchase and possession of soya beans

10. Any person, whether or not a party to a scheme contract who deals in or possess soya beans in contravention of these regulations; that is to say purchases, receives, stores, sells, obtains, possesses, exports, transports or otherwise disposes of such soya beans, in contravention of these regulations, shall in terms of section 40(2) of the Act be guilty of an offence and liable to a fine not exceeding three times the value of such controlled product, calculated on the current selling price of the Grain Marketing Board within Zimbabwe of the highest grade or class of that controlled product or eight hundred dollars, whichever is greater, or in default of payment, to imprisonment for a period not exceeding two years.

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