

## GOVERNMENT NOTICE

### MINISTRY OF AGRICULTURE, WATER AND LAND REFORM

No.

2022

#### REGULATIONS RELATING TO THE TRANSIT 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

1. Definitions
2. Purpose
3. Scope
4. Requirements under this regulation
5. Withdrawal of registration
6. Surveillance
7. Levies & Fees
8. Confidentiality
9. Prohibitions
10. Restrictions
11. Offences and penalties
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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 –

“AMID” means the computer system of the Board, named Agricultural Marketing Information Database, or any other system 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 control inspector” means an employee of the Board with responsibility to verify whether all the requirements of the in-transit permit have been met, prior to clearing controlled products for transit through Namibia.

“border receipt” means a document issued at both port of entry and exit by the border control inspector to confirm that the consignment was cleared for transit through Namibia, and it has exited

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

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

“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.

“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).

“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.

“mutual recognition agreement” means an international agreement by which two or more countries agree to recognize one another's conformity assessments results.

“MRA” means a Mutual Recognition Agreement

“NAB’s Website” means the N.A.B.’s website, located at [www.nab.com.na](http://www.nab.com.na).

“NamRA” means the Namibia Revenue Agency.

“overstay” means extension of the official period allowed for transit products to exit the country

“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 products.

“port of exit” means the place in Namibia where a consignment will leave the country.

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

“transiter” any person or company that transports controlled agronomic or horticultural products through Namibia to other countries

“transit” means products, originating in a country outside of Namibia and passing through Namibia to another country

“transloading” means is the process of transferring a shipment from one mode of transportation to another.

## **2. PURPOSE (OBJECTIVE)**

To ensure that controlled products, in-transit through Namibia destined to other countries, comply with the provisions of these regulations.

## **3. SCOPE**

These regulations apply to controlled products, in transit through Namibia.

## **4. REQUIREMENTS UNDER THIS REGULATION**

### **4.1 Registration**

4.1.1 All traders, involved with consignments of controlled products through Namibia to another country, shall be required to register with the Board on application and in the prescribed form, as per section 10(10(j) of the Agronomic Industry Act (Act 20 of 1992).

## 4.2 Transit Permits

- 4.2.1 Registered transiter shall have a valid transit permit, issued by the Board after successful application, for all controlled products intended for transit through the Republic of Namibia on application and in the prescribed form.
- 4.2.2 In transit consignments shall exit Namibia within 48 (forty-eight) hours after the date – and time – recorded on the border receipt.
- 4.2.3 Should a concession, for extended overstay, be requested, it shall be done in writing to the Board on the prescribed form and will be considered on the merits thereof and, if allowed, the consignment shall be housed in a bonded area and additional fees may be applicable.

## 4.3 Inspection

- 4.3.1 Transiter shall inform the Border Control Inspectorate Sub-division, in writing, at least 24 (twenty-four) hours in advance of the expected arrival of the product at that port of entry, using the prescribed form. This arrangement only applies to ports of entry and exit where the Board has no representation.
- 4.3.2 At the port of entry the Border Control Inspector will verify the documentation of all consignments of controlled products to ensure that these regulations, other permit conditions and applicable MRA are complied with.
- 4.3.3 The documentation verification will include:
  - (a) A valid transit permit, in the name of the registered transiter.
  - (b) Supplier invoice for applicable controlled agronomic and horticultural products.
  - (c) A phyto-sanitary certificate, where applicable.
  - (d) A certificate of conformity, issued by a conformity assessment body in the country of the product's origin.
  - (e) An analytical report on mycotoxins, where applicable, issued by an accredited laboratory.
  - (f) A certified copy of the producers G.A.P. certificate, where applicable.
  - (g) A certified copy of the FSMS certificate, of the packing facility, in the country of origin, where applicable.
  - (h) 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.
  - (i) A grading certificate, where applicable.
  - (j) Any other requirements contained in the M.O.U. or permit.
- 4.3.4 The Border Control Inspector at the port of entry will determine whether the consignment meets the requirements of these regulations and additional permit requirements, as applicable.
- 4.3.5 Border verification results:
  - (a) If the consignment is cleared for transit, a border transit receipt will be issued to the transiter by the Inspector as proof of compliance with these regulations. The consignment will then be authorised to proceed on its journey.
  - (c) If the consignment is rejected, a rejection report will be issued to the transiter. The consignment will be detained until outstanding requirements have been met, or disposal instructions have been formalised by the transiter.

- (d) The Border Control Inspector will inform the Namibia Revenue Agency (NamRA) of the outcome of the verification process and provide them with a copy of the border transit receipt, or rejection report, as appropriate.
- 4.3.6 The Border Control Inspector will seal the approved carrying unit, which will be verified at the port of exit from Namibia by Border Control Inspectorate Sub-division, or Compliance Inspectors, if transloading takes place inside Namibia.
- 4.3.7 If transloading takes place, the process shall only proceed with a Compliance Inspector or a Border Control Inspector in attendance. No transloading will be allowed without the presence of an official from the Board.
- 4.3.8 After transloading, the Compliance Inspector or Border Control Inspector will seal the carrying unit and the seal will be checked by the Border Control Inspector at the port of exit
- 4.3.9 The premises where transloading will take place, will be approved by the Board prior to any arrangements taking place. The Board is not responsible for any costs incurred by the transiter, should the premises not be approved by the Board.
- 4.3.10 Legible copies of all documentation used in the inspection process will be collated by the Compliance Inspector and/or Border Control Inspector and used for input into the AMID system and the M.I.S., where applicable and then filed appropriately for a period of three years.
- 4.3.11 All documentation relevant to the transit of a controlled product shall be maintained by the transiter for three years and information required by Board shall be submitted without delay.

## **5. WITHDRAWAL OF REGISTRATION**

- 5.1 Registration as a transiter will be withdrawn if:
  - (a) The registered transiter is found guilty of an offence in accordance with clause 11 of these regulations.
  - (b) The registered transiter 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 transiter fails to pay outstanding debt to the Board.
  - (e) It is found that inferior quality products, or products unsafe for human consumption, are transhipped.

## **6. SURVEILLANCE**

This clause is not applicable to products in-transit.

## **7. LEVIES & FEES**

- 7.1 Fees shall be charged for the application and issuance of in-transit permit for controlled products, as determined by the Board from time to time.

7.2 Where the products are stored in a non-bonded area, after a concession for overstay has been granted by the Board, inspection fees may be raised for the period of overstay and monitoring actions by inspectors of the Board.

7.3 In cases where the product is transloaded, inspection fees will be charged.

## **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 Transitters shall respect the confidentiality requirements involved in 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**

The Minister may prohibit the transit of certain controlled products to certain destinations, on issues related to phytosanitary measures. These prohibitions will be published in the Government Gazette and transitters are responsible to acquaint themselves with existing prohibitions, if applicable.

## **10. RESTRICTIONS**

The Minister may restrict the transit of certain controlled products to certain destinations, on issues related to phytosanitary measures. These restrictions will be published in the Government Gazette and transitters are responsible to acquaint themselves with existing restrictions, if applicable.

## **11. OFFENCES AND PENALTIES**

11.1 If controlled agronomic and horticultural products in transit do not comply with this regulation, the person responsible for the transshipment 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 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 the table in 13.4 - Annexure D

## **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 20 of 1992 and the Appeals Procedure.

### **13. ANNEXURES**

- 13.1 Annexure A – Registration of traders – Application form
- 13.2 Annexure B – Notification of arrival of consignment
- 13.3 Annexure C – Appeals Procedure
- 13.4 Annexure D - Offences and Penalties