



Latest News

AMENDMENTS TO THE FARM FEEDS UNDESIRABLE SUBSTANCES REGULATIONS (Comments due by 16 January 2018)

The Minister of Agriculture, Forestry and Fisheries published a notice to invite comments on the proposed amendment to the Farm Feeds Undesirable Substance Regulations under Section 23 of the Fertilizer, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

In terms of the Regulations, feedstuffs for use in animal feed may only be sold in the Republic of South Africa if they are "sound, genuine and of merchantable quality" (sub-regulation 29(1) of the draft regulations).

The purpose of the Regulations is to ensure that the substances in the feedstuffs, and therefore the feedstuffs do not represent any danger to human health, animal health or the environment or do not adversely affect livestock production.

In terms of the Regulations, farm feeds may not be contaminated. Sub-regulation 29(4) states that the feedstuffs intended for use in animal feeds may only be sold if their content of the undesirable substance or product mentioned in these regulations does not exceed the maximum level specified in the Farm Feeds Undesirable Substances Regulations. (Sub-regulation 29(4) should be read with sub-regulation 29(5)).

Notice No. 1237 was published in *Government Gazette* No. 42037 of 16 November 2018.

The proposed amendments are available to download from the DAFF website at https://www.nda.agric.za/daaDev/sideMenu/ActNo36_1947/Proposed%20amendments%20to%20Farm%20Feeds%20regulations%2009112018.pdf

Comments must be submitted in writing within 60 days of publication of this notice to Mr Jonathan Mudzunga (the Registrar: Act 36 of 1947) at e-mail address: MalutaM@daff.gov.za or at Private Bag X343, PRETORIA, 0001. The physical address is 20 Steve Biko Road, Arcadia, PRETORIA.

Mr Mudzunga can be reached telephonically at (012) 319 7303.

Customs Tariff Applications and Outstanding Tariff Amendments

The International Trade Administration Commission (ITAC) is responsible for tariff investigations, amendments, and trade remedies in South Africa and on behalf of SACU.

Tariff investigations include: Increases in the customs duty rates in Schedule No. 1 Part 1 of Jacobsens. These applications apply to all the SACU Countries, and, if amended, thus have the potential to affect the import duty rates in Botswana, Lesotho, Namibia, Swaziland and South Africa.

Reductions in the customs duty rates in Schedule No. 1 Part 1. These applications apply to all the SACU Countries, and, if amended, thus have the potential to affect the import duty rates in Botswana, Lesotho, Namibia, Swaziland and South Africa.

Rebates of duty on products, available in the Southern African Customs Union (SACU), for use in the manufacture of goods, as published in Schedule No. 3 Part 1, and in Schedule No. 4 of Jacobsens. Schedule No. 3 Part 1 and Schedule No. 4, are identical in all the SACU Countries.

Rebates of duty on inputs used in the manufacture of goods for export, as published in Schedule No. 3 Part 2 and in item 470.00. These provisions apply to all the SACU Countries.

Refunds of duties and drawbacks of duties as provided for in Schedule No. 5. These provisions are identical in all the SACU Countries.

Trade remedies include: Anti-dumping duties (in Schedule No. 2 Part 1 of Jacobsens), countervailing duties to counteract subsidisation in foreign countries (in Schedule No. 2 Part 2), and safeguard duties (Schedule No. 2 Part 3), which are imposed as measures when a surge of imports is threatening to overwhelm a domestic producer, in accordance with domestic law and regulations and consistent with WTO rules.

To remedy such unfair pricing, ITAC may, at times, recommend the imposition of substantial duties on imports or duties that are equivalent to the dumping margin (or to the margin of injury, if this margin is lower).

Countervailing investigations are conducted to determine whether to impose countervailing duties to protect a domestic industry against the unfair trade practice of proven subsidised imports from foreign competitors that cause material injury to a domestic producer.

Safeguard measures, can be introduced to protect a domestic industry against unforeseen and overwhelming foreign competition and not necessarily against unfair trade, like the previous two instruments.

Dumping is defined as a situation where imported goods are being sold at prices lower than in the country of origin, and also causing financial injury to domestic producers of such goods. In other words, there should be a demonstrated causal link between the dumping and the injury experienced.

The International Trade Commission of South Africa (ITAC) also publishes Sunset Review Applications in relation to anti-dumping duty in terms of which any definitive anti-dumping duty will be terminated on a date not later than five years from the date of imposition, unless the International Trade Administration Commission determines, in a review initiated before that date on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, that the expiry of the duty would likely lead to continuation or recurrence of dumping and material injury.

There were no applications to amend the Customs tariff of the Southern African Customs Union.

The latest application (list 07/2018) was published in *Government Gazette* No. 41928 of 28 September 2018 under Notice No. 602 of 2018.

Customs Tariff Amendments

With the exception of certain parts of Schedule No. 1, such as Schedule No. 1 Part 2 (excise duties), Schedule No. 1 Part 3 (environmental levies), Schedule No. 1 Part 5 (fuel and road accident fund levies), the other parts of the tariff is amended by SARS based on recommendations made by ITAC resulting from the investigations relating to Customs Tariff Applications received by them. The ITAC then investigates and makes recommendations to the Minister of Trade and Industry, who requests the Minister of Finance to amend the Tariff in line with the ITAC's recommendations. SARS is responsible for drafting the notices to amend the tariff, as well as for arranging for the publication of the notices in Government Gazettes.

Parts of the South African Tariff are not amended resulting from ITAC recommendations.

These parts (for example Parts of Schedule No 1 other than Part 1 of Schedule No. 1), must be amended through proposals that are tabled by the Minister of Finance, or when the Minister deems it expedient in the public interest to do so.

Once a year, big tariff amendments are published by SARS, which is in line with the commitments of South Africa and SACU under international trade agreements.

Under these amendments, which are either published in November or early in December, the import duties on goods are reduced under South Africa's international trade commitments under existing trade agreements.

Various amendments to the Common External Tariff (CET) of the Southern African Customs Union (SACU) were published in *Government Gazette* No. 42036 of 16 November 2018.

Under the first notice (Notice R. 1234), rebate provisions 306.15/2815.12/01.06 and 306.15/2815.12/02.06 have been created for sodium hydroxide used in the extraction of copper and nickel, subject to a permit from ITAC as recommended in ITAC Report 592.

Temporary rebate provisions have also been created for the importation of certain flat-rolled steel products to be used in the manufacture of various products in the automotive industry, subject to an import permit by ITAC, as recommended in ITAC Report No. 590.

The notice to implement this recommendation (Notice R. 1233) was published in *Government Gazette* No. 42036 of 16 November 2018.

Consequential to the amendment above, the safeguard duty provisions on flat-rolled steel products have been amended to exclude flat-rolled steel products which qualify for the rebate provisions from payment of safeguard duties.

This notice (Notice R. 1232) was published in *Government Gazette* No. 42036 of 16 November 2018.

Customs Rule Amendments

The Customs and Excise Act is amended by the Minister of Finance. Certain provisions of the Act are supported by Customs and Excise Rules, which are prescribed by the Commission of SARS. These provisions are numbered in accordance with the sections of the Act. The rules are more user-friendly than the Act, and help to define provisions which would otherwise be unclear and difficult to interpret.

Forms are also prescribed by rule, and are published in the Schedule to the Rules.

There were no amendments to the Customs and Excise Rules at the time of publication. The latest amendment to the Customs and Excise Rules (DAR 177) was published in *Government Gazette* No. 41798 of 27 July 2018.

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