



NOTES:

1. Your attention is directed to the relevant extracts from the NRCS Act 5, 2008, which are reflected below.
2. You must provide the NRCS with your proposed corrective action plan (if any) in writing for the correction of the product/s or commodity/ies mentioned above for the purpose of bringing the product/s or commodity/ies in accordance with the relevant compulsory specification within 7 business days from the date of receipt of this directive.
3. Should you wish to voluntarily surrender these commodities to the NRCS, kindly communicate same to the NRCS in writing, we will then advise of steps to be taken in this regard.
4. Should you be an employee and/or acting under the direction and/ or supervision of some other person, you must advise him or her of this Directive.
5. Should the goods/commodities be tampered with or disposed of and/ or removed from your possession or control by your principal or any other person contrary to this Directive that will not absolve you from prosecution, and would also render him/her liable for prosecution.
6. The above mentioned description of the non-complaint product/s or commodity/ies includes any other product in your possession or under your control, for which compliance has not been provided to the NRCS.

THE POSSESSOR'S ATTENTION IS DRAWN TO THE FOLLOWING SECTIONS OF THE EXTRACTS OF THE NRCS ACT 5 OF 2008 AND THE REGULATIONS HEREUNDER:

Section 14. Effect of Declaration as Compulsory Specification

- (1) No person may import, sell or supply a commodity, product or service to which a compulsory specification applies, except in accordance with that specification.
- (2) No person may import, sell or supply a commodity, product or service to which a compulsory specification applies, unless-
  - (a) the commodity, product or service complies with, or has been manufactured in accordance with, the compulsory specification, or both; and
  - (b) if applicable, the distinctive mark referred to in section 13(6)(a) has been applied to the commodity, product or service in the prescribed manner and the commodity, product or service has been marked in accordance with any requirements in terms of section 13(6)(b).
- (3) Any person who imports, sells or supplies a commodity, product or service to which a compulsory specification applies, must-
  - (a) keep or supply to the National Regulator such records as may be prescribed by the Minister.
  - (b) pay such fees to the National Regulator as may be prescribed by the Minister after consultation with the Minister of Finance.
- (4) The National Regulator may issue a sales permit exempting the person to whom it has been issued from complying with subsection (2)(a).

Section 15. Non-Conformance to Compulsory Specification

- (1) If the Chief Executive Officer on reasonable grounds suspects that a commodity or product, or a consignment or batch of a commodity or product, does not conform to or has not been manufactured in accordance with a compulsory specification that applies to it, the Chief Executive Officer may issue a directive to ensure that any person who is in possession or control of the commodity or product, consignment or batch, keeps it in his or her possession or under his or her control at or on any premises specified in the directive, and does not tamper with or dispose of it, until the directive is withdrawn by the Chief Executive Officer in writing.
- (3) If the National Regulator finds that a commodity or product referred to in subsection (1) does not conform to the compulsory specification concerned, the National Regulator may-
  - (a) take action to ensure the recall of a commodity or product;
  - (b) direct in writing that the importer of the consignment returns it to its country of origin; or
- (c) direct in writing that the consignment or batch of the article concerned be confiscated, destroyed or dealt with in such other manner as the National Regulator may consider fit.

(In terms of the NRCS Act Regulations published in the Government Gazette No. 33615 of 15 October 2010, Any costs or losses incurred in complying with section 15 of the Act shall be for the account of the person in whose possession or under whose control, the commodities or products are.)

Section 17. Powers of inspector to enter, inspect, search and seize

- (1) In order to monitor and enforce compliance with this Act and, subject to the conditions of his or her appointment, an inspector may at any reasonable time and without prior notice enter any premises, other than a private dwelling, in or upon which-
  - (a) An article in respect of which there is a compulsory specification is-
    - (i) Manufactured or sold;
    - (ii) Stored or used in the course of any business; or
    - (iii) Stored for any purpose in connection with the import or export of the commodity or product;
  - (b) Any manufacture, sale, use or storage is reasonably suspected; or
  - (c) Any records with regard to the import, manufacture or sale of an article referred to in paragraph (a) or (b) are kept.
- (7) An inspector who removes anything from premises being searched, must-
  - (a) Issue a receipt for it to the owner or person in control of the premises; and
  - (b) Return it as soon as practicable after it has served the purpose for which it was removed.

Section 19. Powers to Question and Do Market Surveillance Inspections

- (1) In order to monitor and enforce compliance with this Act, an inspector may-
  - (a) Examine and take samples of an article referred to in section 17(1) or any component, material or substance in or upon the premises concerned used or suspected to be intended for use in the manufacture of such an article;
  - (b) Open and examine the contents of any package or container which contains or is suspected to contain an article referred to in section 17(1) or any component, material or substance in or upon the premises concerned used or suspected to be intended for use in the manufacture of such an article;
  - (c) Examine any operation or process carried out in or upon the premises referred to in section 17(1) in connection with the manufacture or supply of any commodity, product or service, for which a compulsory specification is applicable in terms of this Act;
  - (d) At any time, demand from any person that he or she at a time and place fixed by the inspector produce to him or her any book, notice, record, list or other document which is in the possession or custody or under the control of that person or any other person on his or her behalf;
  - (e) Examine a book, notice, record, list or other document referred to in paragraph (d) and make copies thereof or extracts therefrom or request that they be made, if it relates to an article referred to in section 17(1)(a) or (b);
  - (f) Require from a person in charge of any records referred to in section 17(1)(c) an explanation of any record or entry therein, and seize such record if it may afford evidence of any offence in terms of this Act;
  - (g) Require any person who is the owner or in control of the premises referred to in section 17(1) to appear at a time and place fixed by the inspector, and question that person with regard to any matter which the inspector is investigating; or
  - (h) Examine any relevant document of a manufacturer or importer of a commodity, or product or the supplier of a service in respect of which a compulsory specification is in force, to determine whether that manufacturer or importer has paid the prescribed fees referred to in section 14(3)(b).

Section 34. Offences and Penalties

- (1) A person is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year if that person-
  - (a) Contravenes or fails to comply with section 14(1), (2) or (3), 19(2) or 20(1)(a), (b) or (c);
  - (b) Fails to keep a commodity or product or consignment or batch in his or her possession or under his or her control at or on specified premises as contemplated in section 15(1);
  - (c) Tamper with or disposes of a commodity or product or consignment or batch in contravention of a directive issued under section 19(1)(g);
  - (d) Fails to co-operate and furnish assistance to an inspector as contemplated in section 18(2);
  - (e) Fails to appear before an inspector for questioning as contemplated in section 19(1)(g);
  - (f) Falsely represents any material or substance to be reference material supplied by the National Regulator;
  - (g) Makes any relevant statement to an inspector which is false in any material respect, knowing it to be false;
  - (h) Refuses or fails to answer to the best of his or her knowledge any relevant question which an inspector has in the exercise of his or her powers put to him or her;
  - (i) Refuses or fails to comply to the best of his or her ability with any lawful requirement, demand or order of an inspector; or
  - (j) Hinders or obstructs an inspector in the exercise of his or her powers.

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