



APAC NEWSLETTER

March 2016 edition

Dear Farmer

In this edition we focus on when is a person an agent and what is required from a person acting on behalf of the farmer in the marketing and/or selling of the fresh produce.

When is a person an agent?

An agent is a person who acts on behalf of a farmer, or on instruction of a farmer in the marketing and/or selling of the farmer's fresh produce. There is often the misperception that an agent is only a person who is situated on a Fresh Produce Market and receives a commission for services rendered. A person is classified as an agent when his/her activities include aspects such as the following (note that in some cases, only one aspect may be performed, whereby in other cases all are performed by the person):

- ✓ The person interacts with buyers with the intention to market and sell the farmer's fresh produce;
- ✓ The person does not pay the farmer for the produce (as ownership remains with the farmer until the buyer pays for the fresh produce);
- ✓ The person negotiates price with buyers;
- ✓ The person does not necessarily have the farmer's fresh produce on his trading space (might be delivered directly from the farm to the buyer);
- ✓ The person receives the buyer's sales money, where after it is paid over to the farmer;
- ✓ The person receives for his/her services rendered a fee, which can be at a certain rate, scale or be commission.

What does the law require from a person who wants to become an agent?

The Agricultural Produce Agents Act, Act 12 of 1992, determines that no person may act as an agent for a farmer, unless they are registered with the Agricultural Produce Agents Council (APAC). It is a criminal offense to act as an agent without being first registered.

Why are agents regulated?

Farmers are vulnerable, as they entrust an agent with their fresh produce and/or the money received from the sales deal. Both the Act and the establishment of the Agricultural Produce Agents Council was to ensure that farmers who entrust their fresh produce to fresh produce agents, are protected.



As at the end of the 2014/2015 financial year, agricultural agents sold on behalf of farmers produce to the value in excess of R61 Billion. This amount includes sales through livestock agents and export agents, which are also regulated by APAC.

How are farmers safeguard?

Farmers who sell their fresh produce by using fresh produce agents has “insurance” in terms of the Fidelity Fund. Farmers can lodge a claim against the Fidelity Fund for losses as a result of a fresh produce agent being found guilty of theft. It is important to note that the fund is not limitless and farmers have a joint responsibility to mitigate any possible risks by ensuring that at least weekly reporting is received on sold and unsold produce; receiving payment for sales within 5 working days after the sale took place; stop sending further consignments if non-compliance or irregularities are detected; and reporting it to APAC.

APAC also performs certain activities to detect and mitigate farmers risk, such as:

- Conducting stock audits, whereby a farmer’s produce on the trading floor are counted per consignment, class and quantity delivered and then compared with the market information system’s information;
- Conducting compliance audits to evaluate whether the fresh produce agent pays his/her farmers within 5 working days after sales took place, evidence exist of at least weekly reporting on sold and unsold produce, whether trust money (farmers’ money) is sufficient to pay all farmers, etc.
- Checking fresh produce agents monthly trust reconciliations and annual audit reports to ensure the agency practices sound financial management. The aforementioned is also published monthly on the APAC website.
- Conducting investigation in areas where irregularities are detected and taking disciplinary action against transgressors. The outcome of all disciplinary hearings are published on the APAC website.

How can farmers help APAC?

APAC cannot function in isolation and needs the support of farmers by: -

- Not supporting any unregistered agent and to report it to APAC;
- Regularly visiting the APAC website and checking whether your agent/agency are registered as well as what the financial stance of the agency is, based on what is reflected under the header trust reconciliation submissions and audit report submissions;
- Enforcing that you receive at least weekly written reporting in order to know what volume of fresh produce was sold at what price and what volumes remains unsold;
- Enforcing that your fresh produce agent pays you for fresh produce sold within 5 working days;
- Reporting immediately to APAC any irregularities detected.

Fast facts:

Number of Registered fresh produce agencies	Number of registered fresh produce agents (sales personnel)	Number of fresh produce markets	Provinces where agents operate	Sales in 2014/2015 by fresh produce agents
104	1'029	22	9	R13.6 billion