

CONSTITUTION OF THE INDEPENDENT CERTIFICATION COUNCIL FOR SEED POTATOES



CONSTITUTION OF THE INDEPENDENT CERTIFICATION COUNCIL FOR SEED POTATOES

1. NAME

The name of the body is the **Independent Certification Council for Seed Potatoes** (hereinafter referred to as the **Council**)

2. STATUS

2.1 The **Council** is a representative autonomous national body in the potato industry designated by the Minister of Agriculture as the Authority to implement the provisions of the South African Seed Potato Certification Scheme (hereinafter referred to as the **Scheme**).

2.2 The members of the **Council** shall be designated by the Seed Potato Growers' Forum. The **Council** has been established for the purposes and with the competencies and powers set out herein. The **Council** is a legal entity existing independently of its members and shall be the independent bearer of rights and obligations. The **Council** is able to carry out any juristic act and can in its own name institute, conduct and contest in a court any juristic act and shall in the case of such legal act or lawsuit be represented by its members or by any person or persons duly authorised by the **Council** to do so.

3. OBJECTIVES

The objectives of the **Council** shall be:

- 3.1 to formulate and establish policy guidelines in terms of which the **Scheme** should function;
- 3.2 to ensure that the **Scheme** is applied efficiently and attainably in the interests of the total potato industry;
- 3.3 to continuously evaluate the **Scheme** in order to introduce amendments in the interests of the potato industry; and
- 3.4 to see to the enforcement of the **Scheme** as set out in the regulations approved by the Minister of Agriculture.

4. COMPOSITION OF THE COUNCIL

The **Council** shall be constituted as follows every second year at the meeting of the Seed Potato Growers' Forum:

4.1 Seed potato grower-members

4.1.1 The members of the **Council** consist of the chairpersons of the various regional seed committees and the additional members of those regional committees, as is determined by the criteria of the Seed Growers' Forum, who has to be a seed grower or their representative, provided that the representative must be directly involved with the cultivation of registered seed potatoes.

Upon the resignation of a council member, the respective seed committee must immediately elect a suitable replacement.

4.1.2 A seed production region shall qualify for one representative on the **Council** if two of the following criteria have been complied with:

- The region has certified 50 000 or more 25 kg units of seed potatoes in terms of the **Scheme** for at least two consecutive years; and/or
- The region has registered 100 hectares or more for the production of seed potatoes in terms of the **Scheme** for at least two consecutive years; and/or

- Five or more growers in the region have registered for seed potato production in terms of the **Scheme** for at least two consecutive years.

4.1.3 Membership of the **Council** expires automatically if a region complies with less than two of the above-mentioned criteria for two consecutive years.

4.1.4 A second representative of a region can be designated as **Council** member if:

- the number of certified 25 kg units exceeds 1 million;
- and the number of registered hectares exceeds 2 000 for two consecutive years, provided that the **Council** status of the second representative shall lapse automatically if the region does not comply with both these requirements for two consecutive years.

4.2 **Other members**

4.2.1 Two table producers who are going to serve as **Council** members shall be designated every second year at the Board of Directors' meeting of Potatoes South Africa (PSA) following the Congress of Potatoes South Africa.

4.2.2 Three representatives for the Department: Agriculture, Forestry and Fisheries – one representative for the Plant Improvement Act designated by the Directorate of Plant Production, one representative for the Agricultural Pests Act designated by the Directorate, Agricultural Product Inspection Services and one representative designated by the Directorate: Plant Health. These members are appointed in an advisory capacity and do not have voting rights.

4.2.3 Representative of the Agricultural Research Council – designated by the Director: ARC Roodeplaat

4.2.4 Representative of the Forum for Nuclear Material Producers (NUMPRO)

4.3.5 Representative of Potato Laboratory Services

4.3.6 Committee Executive Chairman (*ex officio*)

4.3.7 Chief Executive Officer: Potato Certification Service (*ex officio*)

4.3 **Appointment of the Chairman**

The Chairman shall be appointed on a contract basis for two years by the producer members of the **Council**. The Chairman shall not represent a production region and should preferably not be an active seed potato grower.

4.4 **Composition of the Executive Committee**

The **Council** may from its own ranks designate an Executive Committee consisting of as many members as regarded as functional; provided that the Chairman and the Chief Executive Officer of Potato Certification Service (hereinafter referred to as **PCS**) shall be members. The Executive Committee shall have the powers of the **Council** between meetings of the **Council** and shall have the right to co-opt further members as the need may arise, provided that all resolutions of the Executive Committee shall be submitted to the following meeting of the **Council** for approval.

4.5 **Composition of *ad hoc* committees**

The **Council** may appoint *ad hoc* committees to deal with specific matters; provided that recommendations of such committees shall be subject to the approval of the **Council** before being implemented, unless the **Council** has expressly authorised such implementation in advance.

4.6 **Designation of advisors**

The **Council** may co-opt advisors without the right to vote.

5. **POWERS AND DUTIES OF THE COUNCIL**

The powers and duties of the **Council** are –

- 5.1 to contract a suitable body or institution with the necessary expertise to apply and implement the **Scheme**;
- 5.2 to ensure that the **Scheme** is applied efficiently and attainably by the contractor;
- 5.3 to formulate policy guidelines in respect of the **Scheme**;
- 5.4 to evaluate and to effect amendments to the **Scheme**;
- 5.5 to institute and to defend lawsuits and to subject any disputes to arbitration and to appoint and to remunerate the necessary legal practitioners with regard to such lawsuits or arbitration and any commission of enquiry; and
- 5.6 to indemnify members in respect of any harm or damage suffered by them during the course of their service.

6. **DISCLAIMER AND LIABILITY**

No member of the **Council** shall be liable for the action, negligence or omissions of any member of the **Council** or an action, negligence or omission which may arise from resolutions of the **Council** and which could lead to any loss or damage or delictual action of any nature against the **Council**.

7. **GENERAL RULES**

- 7.1 Meetings of the **Council** shall be convened upon the instruction of the Chairman; provided that a special and extraordinary meeting shall be convened if three or more members of the **Council** so request in writing.
- 7.2 Notification of **Council** meetings shall be given at least 21 days prior to such meetings.
- 7.3 The Chairman shall have an ordinary vote, but not a deciding vote.
- 7.4 The chairman of **PCS** shall act as Vice-Chairman of the **Council** *ex officio*.
- 7.5 Points of discussion to be submitted to meetings of the **Council** shall be submitted to the Chairman at least four weeks prior to the date of the meeting.
- 7.6 Fifty percent of the **Council** members shall constitute a quorum. If a quorum is not present at a properly constituted meeting at the established time, the meeting shall be adjourned for 30 minutes, and if a quorum is still not present, the members present shall constitute a quorum.
- 7.7 All matters submitted to the **Council** shall be decided by means of a majority of votes present at the meeting, either by voting by a show of hands or by ballot. Motions in respect of which there is a tie of votes shall be regarded as rejected.
- 7.8 Proper minutes of all **Council** meetings shall be drawn up, approved, signed and kept safely.
- 7.9 Determination of the **Council** members' travelling and subsistence costs shall be determined in accordance with tariffs determined by the Board of Directors of **PCS** from time to time.
- 7.10 Matters of strategic importance but not necessarily related to the **Scheme** shall be referred to the industry for a decision.
- 7.11 The **Council** may be discontinued by means of a resolution adopted by at least two thirds of the registered seed potato growers at a special meeting of the Seed Potato Growers' Forum convened for the purpose and in respect of which notice has been given at least 45 days prior to the meeting.

ANNEXURE 1 TO THE CONSTITUTION OF THE INDEPENDENT CERTIFICATION COUNCIL FOR SEED POTATOES (COUNCIL)

COMMUNICATION CHANNELS OF THE COUNCIL

A PLACING OF ITEMS ON THE AGENDAS OF COUNCIL MEETINGS

Meetings of the Seed Potato Committees in the production regions should be arranged as such that adequate time is available to discuss certification issues in order to be able to submit issues to the **Council**.

Submissions to the **Council** shall reach the Administration of **PCS** at least four weeks before the **Council** meeting in order for the Administration of **PCS** to be able to prepare the submissions and send the submissions to the members of the **Council** with the agenda documentation.

The above-mentioned procedure will enable the **Council** member representative of the region concerned to submit a regional decision to the **Council**.

The **Council** shall only deal with items on the agendas other than those referred to above in exceptional circumstances.

B FEEDBACK IN CONNECTION WITH COUNCIL RESOLUTIONS

Feedback in connection with **Council** meetings shall be communicated to the seed potato growers and regional offices of **PCS** in writing.

The Seed Potato Committees shall be welcome to discuss **Council** resolutions at their next meetings.

C GENERAL

1. Seed Potato Growers - Communicate with Seed Potato Committees
- Seed Potato Growers' Forum
2. **Council** members - Inputs at meetings of the **Council**
3. **Council** - Communicates with the Dept of Agriculture i.c.w. –
 1. Tolerance amendments
 2. Dispensations
4. Department of Agriculture, Forestry and Fisheries - Communicates with the Registrar of the Plant Improvement Act i.c.w. –
 1. Amendments to the **Scheme**
 2. Publication of **Scheme** and amendments
5. Management: **PCS** - Personnel, infrastructure and tariffs

D MINUTES

1. The minutes of **Council** meetings shall be sent to the following persons and/or bodies:
 1. Chairman of the **Council**
 2. All **Council** members
 3. CEO: Potatoes South Africa (List of Resolutions only)
 4. Regional offices of **PCS**

2. Minutes of the Executive Committee
 1. All **Council** members

E MEDIA RELEASES

1. Media releases of the Chairman of the **Council** shall be subject to the prior approval of the **Council** or the Executive Committee.