



Recent developments in the dairy regulatory landscape

28 February 2024

10:00 - 11:00

Jompie Burger



Dairy Standard Agency



The Dairy Standard Agency (DSA) is an independent non-profit entity* that promotes the improvement of compliance with quality, safety and metrology standards of milk and other dairy products in South Africa.

The main objectives :



Monitoring of dairy products for compliance with legal standards based on scientific methods;



Liaison and communication with relevant stakeholders to assist in the process of improvement and maintenance of dairy product quality;



Food safety audits and provision of scientific based dairy technical information to stakeholders in the dairy industry.



Project management of the Regulation and Standards Project of Milk SA



Elements of Effective Regulation



Effective regulation is not easy to develop and implement.

The regulator and the regulated must have a **clear understanding of the business and technology that is to be regulated**

Dairy nutrition and composition for example is a technical and complex field and so the regulation thereof.

Industry expectations of effective regulation



- An effective regulatory system should:
- be sensitive to the needs of the industry in adopting and implementing policies that reduce regulations – effective regulation vs over regulation.
 - *industry should not be the cause of over regulation*
- keep cost — in terms of fees, compliance costs, and other burdens imposed on the industry to a minimum.
 - *many of the costs of regulation are born by individual businesses and their customers at the end of the day.*
- maintain objectivity and accountability with respect to those regulated





Recent developments in the dairy regulatory landscape

Code of Good Practice for the Preparation, Adoption and Application of Standards

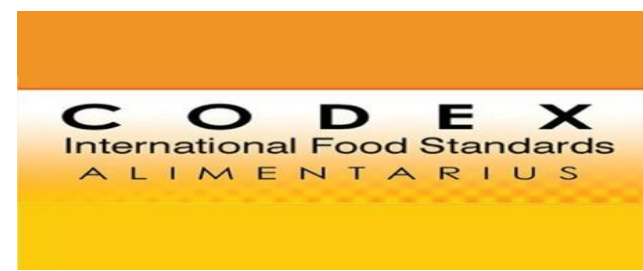


South Africa is a member of the WTO as central government body including SABS as governmental standardizing body

Substantive provisions

- The standardizing body shall ensure that standards are not prepared, adopted or applied **with a view to, or with the effect of, creating unnecessary obstacles to international trade.**
- **Where international standards exist or their completion is imminent, the standardizing body shall use them, or the relevant parts of them, as a basis for the standards it develops, except where such international standards or relevant parts would be ineffective or inappropriate, for instance, because of an insufficient level of protection or fundamental climatic or geographical factors or fundamental technological problems.**

Role of Codex Alimentarius



- The Codex Alimentarius or "Food Code" was established by FAO and the World Health Organization in 1963 **to develop harmonised international food standards, which protect consumer health and promote fair practices in food trade**
- Codex is organized by committees. 10 Commodity committees work on all topics related to a particular food grouping. Horizontal committees work on issues that apply across all commodity committees.
- The Codex Committee on Milk and Milk Products (CCMP), for example, is a commodity committee that creates standards, regulations and guidelines for all internationally traded dairy products.
- The Codex Committee on Food Hygiene (CCFH) Codex Committee on Food Labelling (CCFL)

WTO and Codex



- The WTO's SPS Agreement states that “to harmonize sanitary and phytosanitary measures on as wide a basis as possible, Members shall base their sanitary or phytosanitary measures on international standards, guidelines or recommendations”.
- The Agreement names the joint FAO/WHO **Codex Alimentarius** as the relevant standard-setting organization for food safety.



Codex and the International Dairy Federation(IDF)



IDF is the platform for the international dairy sector to discuss standards for international trade and to achieve consensus on a common approach to issues discussed in Codex.



IDF contributes to the work of the Codex Committee on Milk and Milk Products (CCMMP) by providing first drafts of standards and contributing expert input throughout the development of new standards until their final adoption. IDF also monitors all the other Codex Committees that influence the dairy sector.

INTERNATIONAL DAIRY FEDERATION (IDF) AND CODEX ALIMENTARIUS



- Milk SA Regulation and Standard serves on various standing committees of the IDF as well as task teams dealing which submit comments in preparation of Codex sessions relating to imports and exports, food labelling, e-commerce and food additives etc.
 - *Proposed draft guidance on the provision of food information for prepackaged foods to be offered via e-commerce.*
 - *Codex Committee on Food Labelling - Allergen Labelling.*
 - *Milk and milk products - Quantification of free fatty acids.*
 - *IDF position on Codex discussion paper on harmonised probiotic guidelines for use in foods, beverages and food supplements.*
 - *Comments to Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) regarding food fraud.*
 - *Discussion paper on harmonised probiotic guidelines for use in foods, beverages and food supplements.*
 - *General Standards for the use of dairy terms*
- Where applicable, reports were submitted on behalf of the South African National Committee of the IDF to the IDF as well as the South African Codex Contact point.

SABS and African Organisation for Standardisation



International nongovernmental organization made up of national standards bodies that develops and publishes a wide range of proprietary, industrial, and commercial standards.



South African Bureau of Standards



The important role fulfilled by the SABS as standards writer.



The African Organisation for Standardisation's (ARSO) ambition is to have a minimum of 75 different standards for dairy products developed for the African continent in support of its strategic objective, which is to harmonize trade in Africa in the next four years. Three workgroups for milk and milk products (TC 05) exist that meet monthly as well as one plenary session during which progress is discussed.

Risk analysis and legal compliance



- Risk analysis is at the heart of modern approaches and is rapidly emerging as a unifying discipline across all food sectors;
- International standard-setting organizations (ISO/Codex and WHO/FAO), national governments and other bodies have embraced risk analysis as an essential tool to achieve their goals;
- Competent authorities are obliged by international agreements to similarly utilize risk assessment wherever possible and practical.

Intergovernmental Relations Framework Act, Act 13 of 2005



- To establish a framework for the national government, provincial governments and local governments to promote and facilitate intergovernmental relations; to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes; and to provide for matters connected therewith.

The regulatory environment and the dairy industry



Fragmented legislation and standards that are multi-dimensional and demanding because of:

- Various regulations relating to animal feed, animal health, the environment, milking parlours, transportation of milk, product composition, food safety, processing plants, storage and distribution;
- The regulations are issued in terms of different laws and the enforcement of these laws lies within the structures of the various departments.

Procedure for drafting or amendment of national regulations



- Engagement with the Department of Monitoring and Evaluation (DME) to finalize the SEIAS.
- In South Africa, Cabinet decided on the need for a consistent assessment of the socio-economic impact of policy initiatives, legislation and regulations in February 2007. The approval followed a study commissioned by the Presidency and the National Treasury in response to concerns about the failure in some cases to understand the full costs of regulations and especially the impact on the economy.



The role of Milk SA

- Milk SA was established to deal with collective issues of the primary and secondary dairy industries
- Five broadly described strategic issues, in respect of which collective actions are required:
 - *Consumer Education,*
 - ***Promotion of compliance of dairy products with the legal requirements in respect of food safety, product composition and metrology – Regulation and Standards Project of Milk SA***
 - *Empowerment through especially training,*
 - *Industry Information,*
 - *Research and Development.*



Regulations and Standards Project of Milk SA



STEPS	PROCEDURES AT EACH STEP
Step 1	Receiving of draft regulations/standards and request for comments on technical and related industry documents.
Step 2	Drafting comments Consultation with committee members, formulation and circulation of documents for comments to industry members and stakeholders.
Step 3	Drafting process Collating and finalising comments for submission to the relevant authority/institution and circulation to industry and stakeholders necessary.

Step 4	Consultation process Further consultation if necessary, with relevant authority and communication with committee members and industry members regarding 2 phase of commenting.
Step 5	Submission to relevant authority
Step 6	Communicating outcomes to industry members

Foodstuffs, Cosmetics and Disinfectants Act

Basic objectives of the Act:

- Forbids the sale of foodstuffs that may be detrimental or harmful to health
- Endeavors to protect the consumer from exploitation from false or misleading claims
- Attempts to provide the consumer with such information as is necessary to make informed choices according to food safety & health related individual needs and wishes



Foodstuffs, Cosmetics and Disinfectants Act (cont)



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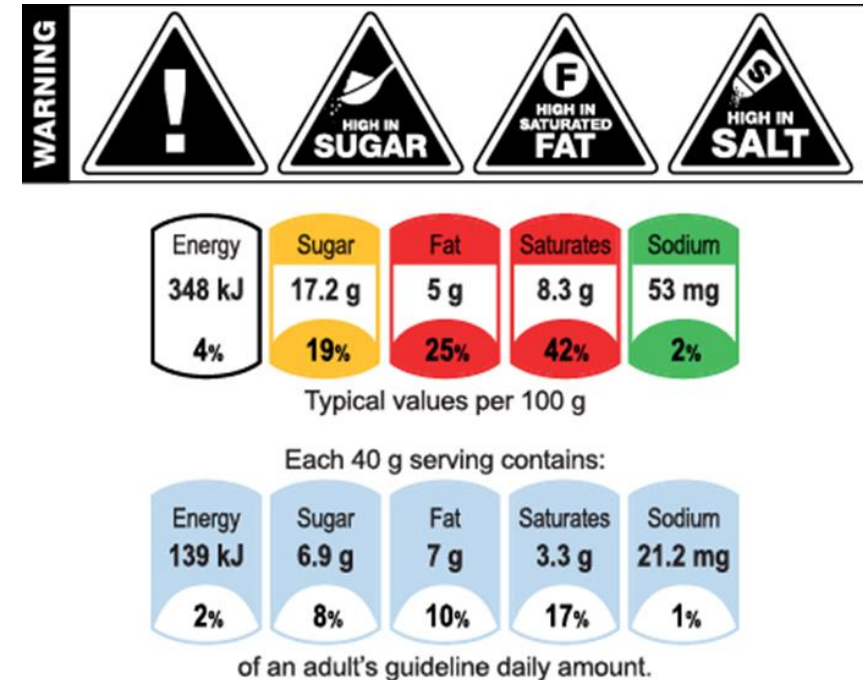


DEPARTMENT OF HEALTH: FOODSTUFFS, COSMETICS AND DISINFECTANTS ACT



Front-of-pack nutrition labelling and the draft Regulations relating to the Labelling and Advertising of Foodstuffs

- Front-of-pack nutritional labelling (FOPNL) refers to a **nutrition labelling system that is presented on the front of food packages** with the aim of supporting consumers to make healthier food choices at the point of purchase by delivering simplified and at-a-glance nutritional information.
- Proposes a warning sign on the front of processed food packaging, that warns the consumer if the product is high in **fat, salt and/or sugar**. These are the nutrients that are associated with increased health risks.
- The revision of the R146 of 2010 resulted in **draft regulations designed** by DoH. 31 January 2023



Organised dairy industry has no reason not to support the overarching goal of improving the health of South Africans - any developed FOPNL warning system by DoH must not harm the undisputable contribution of the nutritional value of milk and other dairy products as part of an overall healthy lifestyle.

Department of Health - FOPNL



FOPNL- refers to a nutrition labelling system that is presented on the front of food packages with the aim of supporting consumers to make healthier food choices at the point of purchase by delivering simplified and at-a-glance nutritional information.



Draft regulations (R3337) was published in 2023.



Major concern was the current DoH approach towards the mandatory use of front-of-pack (FOP) labelling, and the Milk SA Task Team, put forward a scientific document to strengthen the position of the dairy industry - with specific reference to the unique nutritional composition of dairy.



Final comments submitted 21 July 2023. Since the submission of the final industry comments on the draft regulation (R3337) relating to the labelling and advertising of foodstuffs, no follow-up response from the Department of Health (DoH) has been received.

Department of Health: Matters relating to R1555 of November 1997, Regulations relating to milk and dairy products under the Foodstuffs, Cosmetics and Disinfectants Act



Project initiated in 2022 with R&D on risk assessment to determine the significance of E. coli and coliforms as indicator organisms of hygiene and food safety in milk in South Africa with the intention of updating specifications as set out in Regulation 1555.

Finalisation of the remainder of the regulation relating to segregation of milk and dairy product designations for designing reviewed standards, proposals on prohibition clauses as well as definitions.

Concepts to be presented to the organized dairy industry during the first quarter of 2024.

Department of Health: Clarity on the use of the Lactose Peroxidase System (LPS) under controlled conditions



Formal correspondence to Directorate Food Control regarding the use of the Lactose Peroxidase System (LPS) under controlled conditions (as per the WHO guidelines) could assist the dairy industry in maintaining quality of unprocessed milk during storage and transportation.



health

Department:
Health
REPUBLIC OF SOUTH AF

The LPS is internationally well recognised and used and the request to the Department of Health is aimed at simply recognising the use thereof by the South African dairy industry.



Restricted particulars in terms of APS Act

➤ Section 6 of APS Act: Prohibition of false or misleading descriptions for products

“No person shall use any name, word, expression, reference, particulars or indication in any manner, either by itself or in conjunction with any other verbal, written, printed, illustrated or visual material, in connection with the sale of a product in a manner that conveys or creates or is likely to convey or create a false or misleading impression as to the nature, substance, quality or other properties, or the class or grade, origin, identity, or manner or place of production, of that product.”

➤ Restrictions also apply to:

- Any notice board displayed at or in the immediate vicinity of the product
- All advertisements related to the product (e.g. in magazines, on TV, over the radio, in-store, on vehicles transporting products, etc.)

Examples of complexities



Vegetable oils (rapeseed, palm, sunflower in varying proportions), water, salt (1.4%), emulsifiers (sunflower lecithin, mono- and diglycerides of fatty acids), acid (citric acid), flavourings, colours (carotenes), vitamins (A, D).

Examples of complexities





DALRRD - AGRICULTURAL PRODUCTS STANDARD ACT: DIRECTORATE FOOD SAFETY AND QUALITY ASSURANCE: rBST claims



- A formal letter to FSQA explaining the position of Milk SA regarding the use of “rBST free” (recombinant bovine somatotropin) claims on dairy product containers.
- Permission was granted to FSQA to share the information with the interested parties for the purpose of further discussion on the legalities regarding the use of such a claim.
- To speed up the process, the project manager also engaged with the retailer and testing laboratory in question.

DALRRD: FSQA - Review of dairy and imitation dairy product regulations R1510/2019

- Liaison through the Milk SA established Technical Workgroup (TWG). The Milk SA TWG convened during 2022/2023 and all comments were collated leading to the first draft and circulated for comments in July 2022. Comments were collated by the Milk SA Technical Workgroup.
- Further interaction with industry with FSQA end 2022 to present and discuss principal issues presented in the proposed draft.
- Further deliberations during 2023, also taking into consideration the activities of various standing committees of the International Dairy Federation (IDF) and the African Organisation for Standardisation (ARSO) and the possible impact thereof on the proposed draft of which a third version was circulated by the Milk SA Technical Work Group to the organised dairy industry for consideration and comments.
- A request was forwarded to the Directorate: Food Safety and Quality Assurance to discuss any possible areas of conflict that may arise from the draft proposal. The draft proposal was submitted at the end of 2023 and work is to continue during the first quarter of 2024.





DALRRD: Agricultural Product Standards Amendment Bill

- During 2023 the selected Committee on Land Reform, Environment, Mineral Resources and Energy published a further draft on 14 March 2023, inviting written comments on the Agricultural Products Standards Amendment Bill.
- The bill seeks to amend the Agricultural Product Standards Act, 1990, so as to:
 - *insert definitions and substitute others;*
 - *provide for the auditing of a product for management control systems;*
 - *make provision for the setting of tariffs by assignees on a cost-recovery basis;*
 - *make further provisions for the Minister to make regulations pertaining to audit and management control systems, and to provide for matters connected therewith.*
- The incorporation of comments previously submitted by this project on contentious matters was noted and well received. The APS Amendment Bill was subsequently adopted by the National Assembly and sent to the National Council of Provinces for their consideration. Milk SA comments forwarded to the Portfolio Committee on Agriculture, Land Reform and Rural Development during impacted on the draft significantly, with some of the proposals incorporated in the bill. By end 2023 the publication of the amendment bill was still pending.

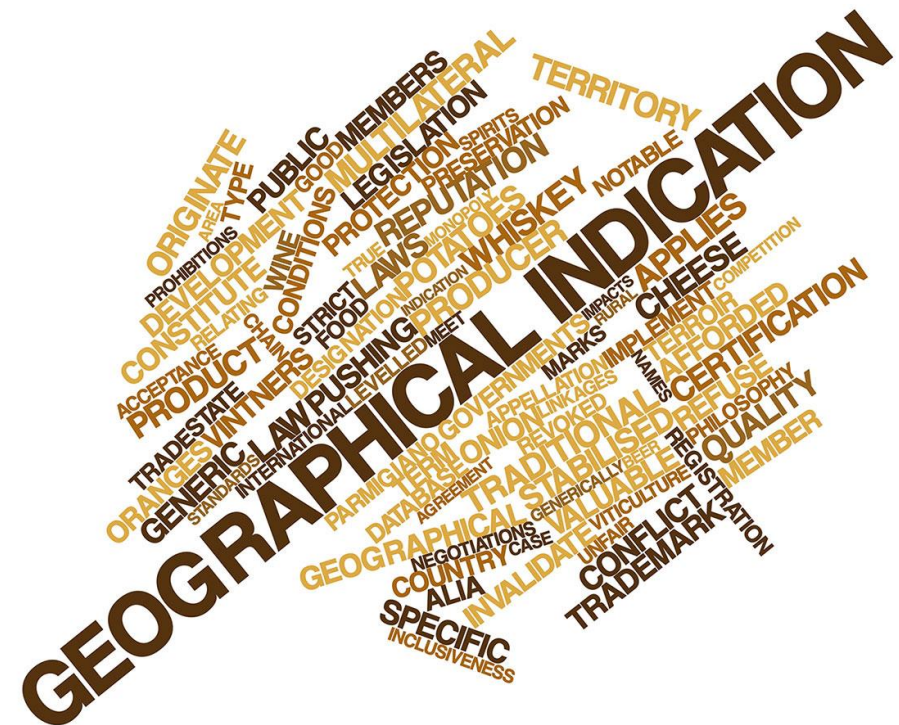
Department of Agriculture, Land Reform and Rural Development - Agricultural Products Standard Act



Regulations relating to the protection of geographical indications (GIs) used on agricultural products intended for sale in the Republic of South Africa

During the meeting it was resolved that:

- *Regulations to include applications for registration of a trans-border GI or trans-border designation of origin that is not yet registered in the bordering country.*
- *Certain regulations be simplified and clarified with regards to the intention and interpretation, to avoid confusion.*
- The definition for “agricultural product” required bilateral debate





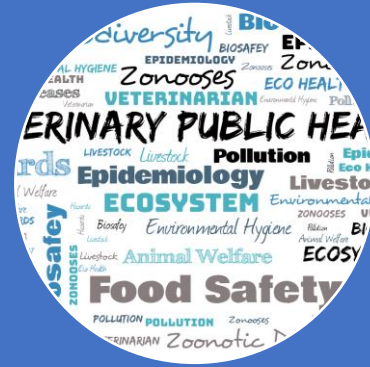
Agricultural Product Standards Act (APS): Export Regulations

On 22 December 2023, the notice was published in the government gazette regarding the amendment of the “Standards and requirements regarding control of the export of dairy products”. These standards, as in the past, will be enforced by the Perishable Export Control Board (PPECB) as appointed assignee under the APS Act.



PPECB

DALRRD: Veterinary Public Health



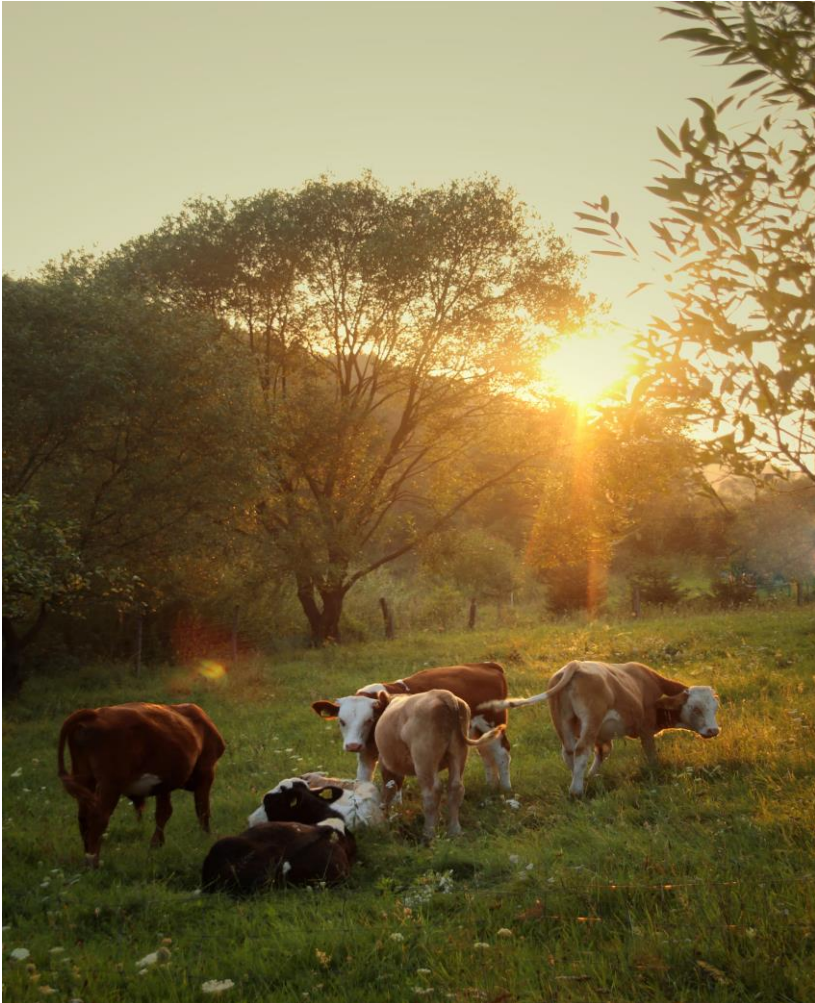
National Chemical Residue Monitoring Programme is a high priority. It is foreseen that this profile of liaison is to continue in the collective interest of the dairy industry until the Chemical Residue Monitoring Programme is fully implemented and maintained.

During 2023, meetings of the Veterinary Public Health (VPH) in respect of possible export opportunities to China and the European Union (EU).

EU representative and officials from DALRRD: VPH was made during December 2023 to the DSA Laboratory Services with proposals to collaborate in compiling a sampling control plan with red meat industry regarding drafting of the dairy residue monitoring programme.



VPN's and dairy export



VPN 20

- The review of the VPN 20 (Veterinary Procedural Notice for the registration of a veterinary approved dairy establishment for export) was finalised during 2021 and submitted to DALRRD: Veterinary Services for comment. Feedback was received from the department, and it will be followed up during 2023.

MATTERS RELATING THE BORDER MANAGEMENT AUTHORITY ACT, 2020



The implementation of this act was closely monitored during the 2023, however concerns are raised regarding the number of competent staff members to be seconded to the Border Management Authority (BMA) and the effect of proper law enforcement e.g., DALRRD: Directorate Inspection Services inland. The Border Management Authority however was launched on 5 October 2023. The implementation of the above act was monitored, with no substantial dairy related matters to report.

During interaction with health officials of the BMA, it was noted that the services are mainly rendered by the following regulatory authorities:

- *BMA Health Specialists*
- *BMA Plant Inspectorate*
- *BMA State Veterinary Inspectorate*
- *National Regulator for Compulsory specifications*
- *South African Health Products Regulatory Authority*

Current challenges experienced by Port Health are:

- *tariff codes*
- *extended health detentions in some of the provinces*



INCREASE IN HEALTH PROMOTION LEVIES (NATIONAL BUDGET 2022)



Increase in health promotion levy



The health promotion levy for beverages with more than 4g of sugar content per 100ml will be increased from 2.21c/g to 2.31c/g from 1 April 2022. Consultations will also be initiated to consider lowering the 4g threshold and extending the levy to fruit juices.



- In the National Budget of 2022 on page 50 under Table 4.7, titled “Increase in health promotion levy”
- Consultations were also initiated to consider lowering the 4g threshold and extending the levy to fruit juices.
- This implied that fruit juices, previously exempted would be affected and that clarity was needed, clarity on whether the dispensation on the issue of tariff codes still stood, or how would it be addressed in terms of dairy.
- The health promotion levy on sugar stood over for consultation until 1 April 2023 will continue with no increase in the levy in the 2023/2024 and 2024/25.



COMBINED LIST OF ACTS, REGULATIONS AND STANDARDS RELATING TO FOOD SAFETY AND QUALITY ASPECTS OF MILK AND OTHER DAIRY PRODUCTS

<https://www.dairystandard.co.za/index.php/dairy-legislation>

