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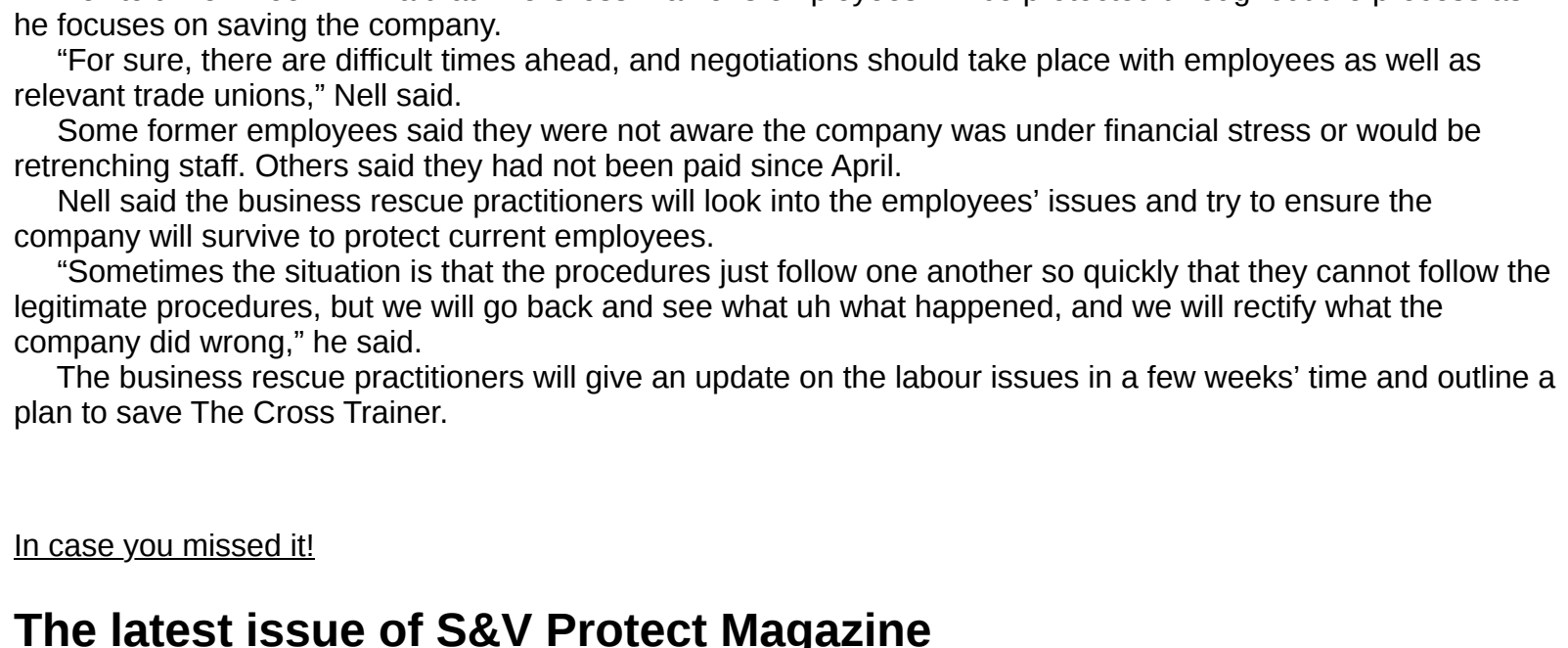
Seizure of incorrectly marked gloves – NCC has 'draconian' powers over importers

This is an update of the article published in S&V Protect on Friday.
 Importers beware! Under the Consumer Protection Act, enacted in 2008, the National Consumer Commission (NCC) has immense power over the labelling of goods, and it appears to be stepping up its efforts to police labelling legislation.
 In response to complaints by importers, the NCC said it published guidelines in 2022-23 and followed these with workshops for CTFL importers in Gauteng, the Eastern Cape, KZN and the Western Cape last year.
 We are aware of 3 PPE businesses which have had glove shipments seized for incorrect or no labelling, but the legislation covers all textile, clothing, leather and footwear (CTFL) products, for fashion or safety wear.
 In the first case reported to us, a KZN-based PPE distributor which has been a regular importer of plain white cotton gloves – 3 containers a year for 10 years, 120 000 pairs per container – had its most recent container detained by the NCC, and has been told it will be prosecuted.
 The container was unloaded on 11 July and initially inspected by Customs on 16 July, at which time the importer was told it would face "a full unpack", which happened on 17 July. On 18 July, the importer was told it had been detained for inspection by the NCC. The NCC inspected the consignment on 08 August, and told the importer the report would take 2 weeks. "At that point, the NCC will decide whether to prosecute and what fine it will seek," the importer said.
 Meanwhile, the goods are in storage, costing the importer approximately R2000 per day. "We know there are three other depots, but we're not allowed to move the goods to another depot while this is being resolved."
 The gloves themselves are unmarked, but the cardboard cartons containing 300 pairs, and the smaller plastic bags containing 12 pairs, are marked with the country of origin and a description of the gloves.
 In terms of the legislation, the importer has only 2 options with the goods themselves – return them to the country of origin, or destroy them. Having them marked with the required labelling in South Africa is not allowed. "Further, it faces a fine which can be up to R10 million or 10% of its annual turnover."
 The importer said he had been caught unawares, and had no knowledge of the labelling legislation. He said he had since discovered that at least 2 other PPE distributors have had similar experiences. "This has to be publicised," he said. "We've asked legal advice, and their opinion is that the NCC has misinterpreted the law. However, since the NCC has won a previous legal challenge, the attorneys say the remaining route is to approach the Constitutional Court. That's an expensive exercise, and one which the PPE industry – perhaps the entire CTFL industry – should tackle as an industry."

A second PPE importer had a similar experience: "We had a container of cotton gloves stopped by the NCC in June last year, because the gloves did not have the correct labels as per the NCC regulations. (We had no previous communication from the NCC regarding labelling requirements.)
 "We requested them to allow us to clear the container under embargo, so that we could get the labels printed and attached locally. We also stated that there had been no communication from the NCC to the safety industry, as far as we were aware.
 "They refused, stating that the goods had to be returned to the supplier for labelling.
 "This was not going to be cost-effective, so we had to get the goods destroyed and send proof of destruction to them and SARS."

In response, NCC media liaison manager Phetho Ntaba wrote: "The Consumer Protection Act was enacted in 2008. Section 24 of the CPA read with Regulation 6 requires that the producer or importer of any goods as specified in the schedule must ensure that the goods are marked with the required labelling information, including a description to those goods, disclosing the following:
 Country of origin of the goods,
 Any other prescribed information (Fibre content, care instructions, language must be English or any South African language).
 The trade description must be permanently affixed on the goods)
 "Goods that fail to meet any of the requirements cannot be labelled locally. Non-compliant goods must either be destroyed at an accredited facility or reexported back to the country of origin or anywhere outside the continent at the cost of the supplier. (please refer to this judgment:National-Consumer-Commission-v-Scoop-Clothing-CC-and-The-National-Consumer-Tribunal.pdf (thencc.org.za)
 "In 2022-23 we published guidelines to assist us highlightly this provision (002066F4695F220919135243 (thencc.org.za). Subsequently, we hopped working with various suppliers of the CTFL in Gauteng, Eastern Cape, KwaZulu Natal, and Western Cape provinces. The purpose was to unpack Section 24 and Regulation 6 of the CPA, understand reasons for non-compliance and any challenge that the suppliers might encounter in the process of importing goods into the republic."

However, attorneys approached by the KZN importer feel the NCC can and should be challenged over the legislation. Their comment follows:



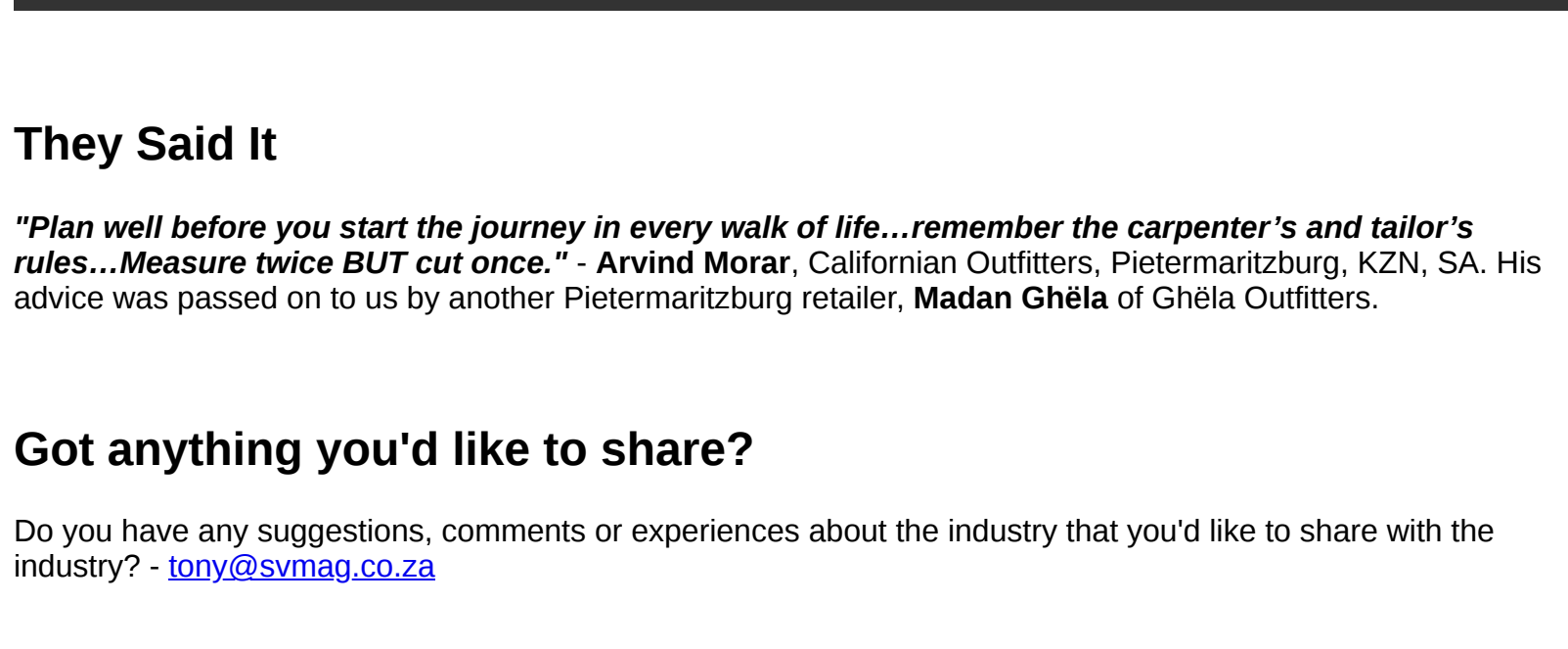
The labelling dilemma

by **Quintus van der Merwe & Siphesihle Ngubane**

We repeatedly get queries from incensed importers who have had goods stopped at the behest of the National Consumer Commission ("NCC") because the labelling of the goods is not compliant. Such a small thing, which gives rise to disastrous consequences since the NCC issues a directive to the importer:
 - threatening a fine of R10 million or 10% of turnover;
 - that the importer must either destroy the goods or re-export the goods to the place of origin or off the African continent.

The poor importer then believes the directive of the NCC so draconian and unreasonable that it simply cannot be lawful. Wrong! The NCC indeed has these draconian powers and will not allow rectification of the defective labelling after the fact. In June 2023 the powers of the NCC were upheld in the case of the NCC v Scoop Clothing & another (Gauteng High Court case no A269/2022).
 The labelling is tasked with ensuring compliance with the Consumer Protection Act 68 of 2008 ("CPA"), including the NCC requirements provided for therein. Section 24, read with regulation 6 of the CPA deals with product labelling. Annexure D to the CPA contains the items that are regulated. The NCC has been steadfast in its strict interpretation that goods must, at the time of importation, have labelling which:
 • reflects the country of origin;
 • provides care instructions; and
 • contains the fibre content.

Goods not conforming with these requirements are detained. The NCC does not allow compliant labels to be affixed post importation. The detention is often for a substantial period resulting in excessive storage and demurrage costs, making any potential constitutional challenge against the powers of the NCC uneconomical. It bears mention we believe there might be a valid constitutional attack against the provisions which only allow for destruction of the goods or the re-export of the offending goods.
 Compliance is key to avoid costly detentions. Importers must be made aware of the labelling requirements and must ensure that their suppliers adhere to these requirements. Perhaps it is necessary to have a pre-shipment inspection given the incredible (and unreasonable) cost of non-compliance.



Well-known South African retailer in business rescue

From **Daily Investor** 19 August 2024

Shaun Jacobs
 Popular sportswear retailer The Cross Trainer has entered the business rescue as South Africa's poor economic performance and reduced consumer spending weigh on retailers.
 The family-owned and operated retailer first opened its doors in 1995 and has grown since then to a total of 67 stores with hundreds of employees.
 The Cross Trainer has been run by the Frame family under its investment vehicle, Frame Leisure Trading.
 Cash-flow problems stemming from the Covid-19 pandemic and its lockdowns resulted in the company failing to keep up with increasing operational costs.
 This resulted in some stores being shuttered by landlords due to disputes over rent payments.
 Ultimately, the company officially entered business rescue on the 14th of August before having to shut down all of its stores.
 The company appointed George Nell from Corporate Business Rescue as one of its business rescue practitioners.
 Nell told Newzroom Afrika that The Cross Trainer's employees will be protected throughout the process as he focuses on saving the company.
 "For sure, there are difficult times ahead, and negotiations should take place with employees as well as relevant trade unions," Nell said.
 "Some former employees said they were not aware the company was under financial stress or would be retrenching staff. Others said they had not been paid since April.
 Nell said the business rescue practitioners will look into the employees' issues and try to ensure the company will survive to protect current employees.
 "Sometimes the situation is that the procedures just follow one another so quickly that they cannot follow the legitimate procedures, but we will go back and see what it was and what happened, and we will rectify what the company did wrong," he said.
 The business rescue practitioners will give an update on the labour issues in a few weeks' time and outline a plan to save The Cross Trainer.

In case you missed it!

The latest issue of S&V Protect Magazine



S&V PROTECT MAGAZINE VOL18 NO3 THIRD QUARTER 2024

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 - National Consumer Commission blitz on 'incorrectly marked' gloves catches at least 3 importers, potentially threatens much wider group.
 - The labelling dilemma: An OBNP safety by appoints **Quintus van der Merwe** and **Siphesihle Ngubane**.
 - Beier Group, which includes BDF Safety Group, appoints **Waran Sachs** as new CEO.
 - Fashion footwear company Dangee Carken enters safety footwear and appoints **Mark Silverman** to head new division.
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 - Understand the issues using Artificial Intelligence in OHS, advises **Leighton Bennett**, Benrisk Consulting, Johannesburg, Gauteng, SA. The version you use must comply with local legislation.
- 07 Safety in Construction**
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 - Promoting health and safety on construction sites: a vital commitment, by Seipati Leboko, head of occupational health, safety and environment division of Aroteq Advisory.
 - George disaster highlights the importance of compliance and the right people partner, by Donné Niemann, sales director at Workforce Staffing.
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Advertisers in this Issue
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They Said It

"Plan well before you start the journey in every walk of life...remember the carpenter's and tailor's adage: Measure twice and cut once." - Edward Jones-Davies (b. 10/06/1925), BUSM [closed], Port Elizabeth, E. Cape, SA. His advice was passed on to us by another Pietermaritzburg retailer, **Madan Ghêla** of Ghêla Outfitters.

Got anything you'd like to share?

Do you have any suggestions, comments or experiences about the industry that you'd like to share with the industry? - tony@svmag.co.za

New subscribers last week

- Rod Bloom**, Director, Barksole, Cape Town, South Africa
- Jannie Stander**, Entrepreneur, Welbourne Shoes, Robertson, South Africa
- Ailan de Boom**, Sales, Bata SA, Gauteng, South Africa
- Paul, Director**, Pienaar Brothers North, South Africa

Birthdays this week

- 19/08/1959: **Luis de Freitas**, Ornella Footwear, Durban, Free State, SA.
- 20/08/1965: **Craig Brouwer**, Albartos Clothing & Promotional Gifts, Germiston, Gauteng, SA.
- 20/08/1980: **Nicholas Bryant**, A Greenways and ProFit Safety Footwear, Cape Town, W. Cape, SA.
- 21/08/1949: **Brian Pollock**, retired, formerly Jordan Shoes, Cape Town, W. Cape, SA.
- 21/08/1952: **Wayne Little**, Matas Import, Cape Town, W. Cape, SA.
- 21/08/1974: **Lisa Rheeder**, Acol Chemical, Harare, Zimbabwe.
- 22/08/1936: **Norma Vanrey**, retired, formerly Edicon (closed), Durban, KZN, SA.
- 22/08/1945: **Richard Hirsch**, Richardson's Shoes, Johannesburg, Gauteng, SA.
- 22/08/1954: **Jax Snyman**, The Sweat Shop, Johannesburg, Gauteng, SA.
- 23/08/1947: **Leon Volschenk**, Leo D' Mar, Great Brak River, W. Cape, E. Cape, SA.
- 23/08/1949: **David Sheppard**, D.P. Sheppard & Co, Port Elizabeth, E. Cape, SA.
- 23/08/1965: **Glyn Giani**, the Footwear Design & Technology School of SA, Pretoria, Gauteng, SA.
- 23/08/1971: **Raymond Schutte**, agent, Pretoria, Gauteng, SA.
- 24/08/1940: **Fred Carpen**, agent, Johannesburg, Gauteng, SA.
- 24/08/1944: **Rolf Oltmanns**, retired, PMC Group, Pinetown, KZN, SA.
- 24/08/1957: **Clive Wood**, Crown Footwear, Pinetown, KZN, SA.
- 24/08/1961: **Ulf Oehli**, Stahl SA, Midrand, Gauteng, SA.
- 25/08/1957: **Judy Anderson**, left the industry, formerly agent, Durban, KZN, SA.
- 25/08/1965: **Iraan Lockhat**, Famous Shoes, Durban, KZN, SA.
- 25/08/1970: **Imran Mahomed**, Mr American, Malelane, Mpumalanga, KZN, SA.
- 25/08/1972: **Andrew Fenwick**, Sadder Belts & Leathercraft, Durban, KZN, SA.
- 25/08/1980: **Adrian Ramsay**, Novita Shoes, Durban, KZN, SA.
- 25/08/1980: **Vivonne Speirs**, emigrated, formerly Fusion Leather, Durban, KZN, SA.
- 25/08/?????: **Anthea Ball**, Adidas, Cape Town, W. Cape, SA.

In this week

- 19/08/2019: **Ronald 'Ronnie' Harris** (b. 4/12/1934), La Nuova Shoes [closed], Pinetown, KZN, SA.
- 20/08/2016: **Gordon Horsfield** (b.), LW Cowie & Co, Durban, KZN, SA.
- 21/08/?????: **Edward Jones-Davies** (b. 10/06/1925), BUSM [closed], Port Elizabeth, E. Cape, SA.
- 21/08/2021: **Imraan Khavira** (b. 17/01/1973), Americanos, Ladysmith, KZN, SA.
- 21/09/2006: **Bhagwandas Dayaram Ambaran** (b. 15/07/1945), JFK Trading, Durban, KZN, SA.
- 22/08/2003: **Bob Butler**, Burton's Shoes, Cape Town, W. Cape, SA.
- 23/08/1950: **Sandy Thuyman**, In Step Leather Craft, Jeffrey's Bay, E. Cape, SA.
- 23/08/2022: **Akkie van der Vyver** (b. 02/03/1945), retired, formerly Adidas, Cape Town, W. Cape, SA.

Have you let us know about your birthday, or the birthdays of your colleagues? Our readers love this section, so please become part of it. This also applies to the In Memoriam section. Help us remember former colleagues.

Directory entries updated last week

Alleather Sales (Pty) Ltd, Durban, KZN, SA.
 Cape Knife Cutting cc, Cape Town, W. Cape, SA.

Exchange rates

Note: For previous rates, see [HERE](#)

1. SA Rand (ZAR)/Lesotho Loti (LSL)/Namibian Dollar (NAD)/Swazi Lilangeni (SZL)

Source: <http://www.xe.com/calculator/>

	Euro €	GBP £	US \$	CNY ¥
01/06/2024	R20.41	R23.96	R18.81	R2.59
08/06/2024	R20.40	R24.02	R18.87	R2.60
15/06/2024	R19.47	R23.03	R18.16	R2.50
23/06/2024	R19.22	R22.74	R17.97	R2.47
29/06/2024	R19.44	R22.95	R18.14	R2.49
07/07/2024	R19.74	R23.35	R18.23	R2.50
13/07/2024	R19.60	R23.32	R17.96	R2.47
20/07/2024	R19.89	R23.61	R17.97	R2.51
27/07/2024	R19.88	R23.55	R18.29	R2.52
03/08/2024	R19.92	R23.39	R18.27	R2.55
10/08/2024	R20.01	R23.38	R18.33	R2.55
17/08/2024	R19.66	R23.11	R17.86	R2.49

2. Botswana Pula

Source: <https://www.xe.com/currencyconverter/>

	Euro €	GBP £	US \$	ZAR
01/06/2024	14.74	17.31	13.59	1.87
08/06/2024	14.82	17.45	13.71	1.89
15/06/2024	14.52	17.18	13.55	1.86
23/06/2024	14.45	17.11	13.52	1.86
29/06/2024	14.53	17.15	13.56	1.86
07/07/2024	14.76	17.46	13.63	1.87
13/07/2024	14.70	17.49	13.47	1.85
20/07/2024	14.71	17.46	13.51	1.85
27/07/2024	14.80	17.53	13.62	1.87
03/08/2024	14.83	17.41	13.60	1.89
10/08/2024	14.80	17.30	13.56	1.89
17/08/2024	14.82	17.42	13.46	1.87

3. Malawian Kwacha (MKW) (buying)

Source: <https://www.rbm.mw/>

	Euro €	GBP £	US \$	ZAR
01/06/2024	1912.34	2247.95	1716.73	94.10
08/06/2024	1925.25	2260.15	1716.73	93.44
15/06/2024	1897.13	2244.77	1716.73	96.93
23/06/2024	1895.01	2239.46	1716.73	98.39
29/06/2024	1890.06	2233.56	1716.73	95.73
07/07/2024	1913.40	2258.56	1716.73	97.10
13/07/2024	1924.86	2283.53	1717.02	98.27
20/07/2024	1921.69	2286.18	1717.02	96.71
27/07/2024	1919.74	2273.98	1717.02	96.61
03/08/2024	1910.19	2252.40	1717.02	97.14
10/08/2024	1931.59	2256.47	1717.02	96.56
17/08/2024	NA	NA	NA	NA

4. Zambian Kwacha (ZMW) (buying)

Source: <https://www.boz.zm/>

	Euro €	GBP £	US \$	ZAR
01/06/2024	28.45	33.32	26.17	1.39
08/06/2024	28.55	33.57	26.36	1.39
15/06/2024	27.73	32.80	25.90	1.41
23/06/2024	27.36	32.36	25.58	1.42
29/06/2024	26.42	31.22	24.69	1.35
07/07/2024	26.47	31.31	24.45	1.34
13/07/2024	27.85	33.17	25.57	1.42
20/07/2024	27.89	33.09	25.61	1.39
27/07/2024	28.37	33.61	26.12	1.43
03/08/2024	28.15	33.09	25.85	1.42
10/08/2024	28.48	33.25	26.10	1.42
17/08/2024	28.89	33.90	26.27	1.46

5. Zimbabwe Dollar (ZWL\$) (average) / Zimbabwe Gold (ZIG)

Source: Source: <https://www.rbz.co.zw/>

	Euro €	GBP £	US \$	ZAR
01/06/2024	ZIG 14.40	ZIG 16.94	ZIG 13.31	ZIG 1.41
08/06/2024	NA	NA	NA	NA
15/06/2024	ZIG 14.45	ZIG 17.12	ZIG 13.48	ZIG 1.35
23/06/2024	ZIG 14.54	ZIG 17.21	ZIG 13.59	ZIG 1.34
29/06/2024	ZIG 14.64	ZIG 17.30	ZIG 13.70	ZIG 1.32
07/07/2024	ZIG 14.81	ZIG 17.48	ZIG 13.69	ZIG 1.33
13/07/2024	NA	NA	NA	NA
20/07/2024	ZIG 14.93	ZIG 17.74	ZIG 13.71	ZIG 1.33
27/07/2024	ZIG 14.96	ZIG 17.72	ZIG 13.78	ZIG 1.32
03/08/2024	ZIG 14.87	ZIG 17.53	ZIG 13.77	ZIG 1.32
10/08/2024	ZIG 15.04	ZIG 17.57	ZIG 13.78	ZIG 1.33
17/08/2024	ZIG 15.14	ZIG 17.75	ZIG 13.79	ZIG 1.30

Note: For previous rates, see [HERE](#)

ABSA Agri Trends: Hides & skins prices

Johannesburg, Gauteng, SA (15 August 2024) – The average hide price increased by 0.51% to 2.801/kg from R2,743/kg a week ago. The current price is 12.68% lower than the average price a month ago and 8.5% lower than the average price a year ago. The range of prices reported was as follows: Minimum price: R2.75 Maximum price: R3.00. Price movements will be highly influenced by developments in the status of our animal diseases. Please note: Our methodology weights the prices we collect according to the number of hides they sell in a month. This is done to make it more representative of the prevailing market price. NB* Hide prices are determined by the average of the RMAA (Red Meat Abattoir Association) and independent companies - **Marlene Louw**, senior agricultural economist, and **Nkhesani Mashimbyi**, agricultural economist, and **Zama Sangweni**, agricultural economist, Absa group.
 Note: For previous prices, see [HERE](#).

Have a look at these links

We invite businesses to send us links to websites, Facebook pages and the like which they feel would be of interest to others. The links below are from our database:
[Takkie Wash](#), Durban, KZN, SA. Sneaker cleaning service.
[Tallyho Leisure & Stylez](#), Umhlanga, KZN, SA. Women's beachwear.

THIS WEEK LAST YEAR!