

# Who is APAC?

by Michael Cordes

South Africa has a unique system of commission markets with financial security for farmers. In terms of the *Agricultural Produce Agents Act (No 12 of 1992)* as amended in 2003, the Minister of Agriculture is required to establish an Agricultural Produce Agents Council (APAC) to administer the Act on behalf of the Minister.

The basic reason for the Act and APAC, is because agricultural produce commission agents act on behalf of their clients (farmers) in a financial capacity. The Act is there to protect the farmers' interests.

There are three groups of agricultural produce commission agents in South Africa: Fresh produce market agents, export agents and livestock agents.

As far as market agents are concerned this includes:

- Making policy and promoting market agents
- Drawing up *The Rules R1818 and Code of Conduct*
- Administering the Fresh Produce Market Agents Fidelity Fund
- Registration of agricultural commission agents
- Monitoring market agents' trust accounts
- Maintaining and promoting the training standards of agents
- Ad hoc audits of agents' stock on floor

- Advertising and promoting the services and facilities offered by agents.

A registrar, deputy registrar and secretary make up the full-time staff complement and are charged with managing the day to day activities of APAC and the application of the Act. APAC makes use of outside service providers for functions such as forensic audits and training of agents.

## The Fidelity Fund

The purpose of the Fidelity Fund is to reimburse producers for direct losses suffered by them as a result of theft committed by a fresh produce agent of money or agricultural produce entrusted by or on behalf of the producer, or due to dishonest conduct by a fresh produce agent in so far as such conduct relates to agricultural produce.

In such cases a farmer who has sold his fresh produce through a registered market commission agent, may claim for his losses from the Fidelity Fund. In other words, the Fidelity Fund guarantees a farmer's money.

## The Trust Account

In terms of the Act, a market agency must open a trust account at a registered banking institution on behalf of their farmers. This Trust Account has only two purposes:

- To deposit the proceeds from the sales of farmers' products and
- To pay the farmers.

The account must be separate from the market agency's normal business account and the agency must submit a trust account reconciliation to APAC every month. In this way APAC is able to keep a watchful eye over the movement of farmers' funds into and out of the trust account.

The Act also stipulates which deductions the market agency may make from the trust account, namely agency commission, transport, handling charges, levies, cold storage and ripening charges and any other deductions authorised by the farmer in writing.

## Farmer Compensation

Rule 25 of the Act stipulates that if a consignment of fresh produce is not fully sold within three business days after receipt thereof, the fresh produce agent must inform the producer of the extent and condition of the unsold quantity.

Rule 26 of the Act stipulates that a fresh produce agent must, within five business days after having sold the produce, pay the farmer and issue a statement containing details such as the date of receipt of the consignment and the amount of commission deducted.

The successful functioning of this system depends on a "partnership" between APAC and the farmer, who must advise APAC of any financial irregularities of his money held by an agricultural commission agent. The farmer must be concerned enough about his own money to keep a tight control over it himself – he cannot expect others to do it for him. ■