



DRAFT Regulations Relating to the Labelling and Advertising of Foodstuffs (R2986)

Workshop

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Short title:
Regulations Relating to the
Labelling and Advertising
of Foodstuffs, 2022.

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FOOD LABELING LANDSCAPE
UNDER DRAFT R2986
KEY LEGAL ISSUES

Minor errors?

When will it be republished?

What about the comments period?

History of food labelling regulations

- **Foodstuffs, Cosmetics and Disinfectants (FCD) Act**
Section 15(1)(h), (k) and 15(2) - regulating powers.
- **Purpose** of Regulations under FCD Act:
 - Address deception of consumers and allow consumers to make informed choices about the food they consume.
 - Generically promote the health of South Africans.

Other laws

- **Agricultural Products Standards Act:**
 - Primarily regulates products standards.
 - Section 6 of Agricultural Products Standards (APS) Act prohibits deceptive practices.
 - Various Regs such R1283 and R2410 for meat related products.
- **Consumer Protection Act:**
 - Labelling – trade description and honest labelling – Section 29, 41.
 - e.g. Meat information on meat products.
 - e.g. Genetically Modified Organisms (GMO) labelling.
- **NRCS – SANS289, SANS 458 etc:**
 - Prohibits deception on mass/volume issues i.e. weights and measures.

Power to regulate like this...

- Section 15 of the FCD Act.
- Object of the regulations is to stop deception/misleading of consumers.
- Constitutional rights balanced against right to free speech and freedom of choice.
- Court Case on tobacco advertising made it clear that the health of the public is overriding factor and right to free speech e.g. advertise tobacco is not absolute – same in other democracies such as Australia.

...but we have a registered trade mark

- Trade Mark (TM) is not an absolute right to use as you want.
- Can still use the trade mark, just not on products falling under these regulations.
- Reg 48(2) possibly saves some TM's – contradicts 9(3).
- This is not “expropriation” – you get to keep your trade mark e.g. use of registered vitamins/meds.
- Consumer Protection Act (CPA) also prohibits deceptive use of product names.

...but we have a registered trade mark

- Section 15(2) of FCD saves pre-1973 TM's to some extent – Minister must apply his mind case by case basis – cannot prohibit generically.
- 1973 to 1 May 1995 – perhaps a legal argument that cannot be retrospective, but public health imperative remains – as per BAT v Min of Health case.
- 1 May 1995 onwards...

So what now?

- They could implement with immediate effect – or short transition period.
- The wording of 9(2) and 9(3) may be subject to legal challenge as it must comply with Section 15(1)(h), 15(1)(k) and 15(2) of the FCD Act – seems it may not:

“(2) No regulation shall be made under subsection (1) (h) which will have the effect of prohibiting the sale of any foodstuff, cosmetic or disinfectant under a trade mark or trade name under which it is sold at the date of the coming into operation of this Act, save in such cases where the Minister is satisfied that the trade mark or trade name falsely or misleadingly describes the foodstuff, cosmetic or disinfectant.”

- These are holding pattern actions and eventually the Department of Health will get this through – if they want rebranding?

The legal position of guidelines

Section 15 (6) of the FCD Act provides that:

The Minister shall, not less than three months before making any regulation under this Act, cause the text of the proposed regulation to be published in the *Gazette*...

Section 16 of Interpretation Act 33 of 1957 provides (in summary):

When any regulation is authorized by any law to be made by a Minister, such regulation shall, subject to the provisions relative to the force and effect thereof in any law, be published in the Gazette.

BUT guidelines were not published in the gazette

Are guidelines enforceable in the same way as regulations?

- Regulations are published for comment in terms of Section 15 of FCD Act.
- Guidelines were not published for comment in the Government Gazette.
- FCD Act does not consider the issue of Guidelines – there is no specific provision for the Director General or anyone else to simply publish Guidelines which then have the force of law.
- Some officials have stated that they are not enforceable and are intended to guide a person on how to comply.
- Guidelines thus are there to assist in compliance with stated criteria in the Act and Regulations.

Are guidelines enforceable in the same way as regulations?

In the draft regulations that were gazetted for comment, the minister defines 'guideline' means guidance documents which are intended to provide detailed information, clarity and examples to enhance the interpretation of these Regulations as published on the website of the Department of Health;

- The guidelines were not themselves gazetted and cannot be commented on;
- The guidelines are not available during the comment period on the regulations which include direct references to them.

Interpretation issues

Overlap between various acts and regulations:

- Unless specifically stated, one regulation is not subordinate to another regulation, especially under different acts.
- Operate in silos, each ministry interprets own act and regulations.
- If in conflict problem arises – inter-ministerial committee etc.

Interpretation issues

- **Interpretation of regulations.**
 - Government officials cannot alter regulations - official amendment.
 - APS allows officials in some instances to waive certain requirements.
 - Beware of officials providing interpretations of regulations.
 - APS inspector approves label.
 - Another APS inspector later orders removal from sale for non-compliance.
- **Guidelines are not the same as regulations.**

DEFINITIONS

1 regulation with 111 definitions

General comments:

- A number of changes in existing definitions.
- Some new definitions based on new sections.
- Much confusion as some definitions not included in the initial section 1 but then only appear under later sections to which the definitions are relevant.

Moral of the story: Don't just look at section 1 for definitions

- Definition of '**common allergen**' now includes **sulphites**.
- New definition for '**dietary fibre**' now includes 'synthetic edible carbohydrate polymers' – opportunity for claims for these.
- Definition of '**enrichment**' now includes requirement for nutrient profiling for enrichment vehicles – to be discussed later.
- New definition of '**fake food**' – unknown term and no mention in Codex.

Might be scope for pushing back.

- **'Guidelines'** defined as 'guidance documents'.

But not available...

- No definition for **'intrinsic sugar'**.
- Definition of **'ingredient'** specifically excludes processing aids – reduces confusion although there is no definition for 'processing aid' – maybe refer to Codex.
- New definition for **'ingredient content claim'**.

- **‘Processed meat’** refers to SANS885 but ‘raw processed meat’ has a R2986 definition. Meat regulations are very complex, to be discussed later.
- New definition for **‘recombined wholegrain flour or meal’** – relevant to wholewheat claims, to be discussed later.
- Definition of **‘sell by’** removed in line with new date-coding requirements – to be discussed later.
- Various additions to list of **‘single agricultural commodities’**: wider range of dairy products including UHT milk & unsalted butter, single ingredient vegetable oils, sucrose.
- Definition of **‘small producer’** refers to BEE codes.
- No definition for **‘total carbohydrate’**, presumably use required nutritional table breakdown – to be discussed later.

- **‘Total fat’** - 2 definitions dependent on whether or not claims are made:
 - If **no claims** – derive from food composition tables (details of requirements are given) or by calculation.
 - If **claims** are made – must determine by analysis.
- **‘Total sugars’** defined as all mono-and di-saccharides (seemingly includes lactose).
- Definition of **‘trans-fat’** excludes naturally occurring trans-fats.
- **‘Wholegrain’** definition states that proportions of constituents must be same as those of intact grain.

PART I

GENERAL PROVISIONS

9 regulations (2-10)

2. General
3. Presentation
4. Letter sizes
5. Identification
6. Country of origin
7. Batch identification
8. Date marking
9. Prohibited statements
10. Negative claims

- Some **broad based requirements**, many in line with R146, but some new requirements:
- Supplier **ingredient information files compulsory** for all ‘ingredient, additive or substance’ used in manufacturing:
 - Must retain data for discontinued ingredients for at least 12 months after last use.
 - Must produce any information required by inspectors / enforcement authorities within 2 working days of request.

PRODUCT INFORMATION IN TERMS OF INGREDIENT/ADDITIVES TRACEABILITY

PRODUCT & CONTACT DETAILS

Customer's Product Name		Customer's Product Code	
Supplier's Product Name		Supplier's Product Code	

Status	<input type="checkbox"/> Existing Product	<input type="checkbox"/> New Product
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Supplier Information

Company Name	
Trading Name	
Business Address	
Postal Address	
Technical Contact Person	
Position Title	
Phone	
Fax	
Cell phone (mobile)	
Email	

Manufacturer(s) or Producer(s) Information

(Complete only when manufacturer or producer is different to supplier, e.g. bought from distributor or agent. List all alternative sources or suppliers.)

Company Name	Site of Manufacture or production (City & Country)

Clarity / explanation

Additive numbers refer to the reference number as per Codex and/or European Union and/or FSANZ – all use the same reference number except the EU includes an E prefix.

Checklist

- All sections of questionnaire complete

Largely unchanged from R146:

- **Language:** English + if required, 1 other language.
- **Layout:** Must not hide proposed warning statements / FOPL.
- **Colours:** Only black background for white lettering.
- **Label:** Cannot be separated from container.
- **Letter size / appearance:** Requirements unchanged other than minimum un-prescribed letter sizes increased from 1mm→1.2mm.

BUT be careful of any other requirements from Agricultural Product Standards / SABS for relevant products. VERY IMPORTANT FOR MEAT

DEPARTMENT OF HEALTH
NO. R. 2986 31 January 2023
DEPARTMENT OF HEALTH
FOODSTUFFS, COSMETICS AND DISINFECTANTS
ACT, 1972 (ACT No.54 OF 1972)
REGULATIONS RELATING TO THE LABELLING
AND ADVERTISING OF FOODSTUFFS

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AGRICULTURAL PRODUCT STANDARDS ACT
NO. 119 OF 1990
[ASSENTED TO 28 JUNE, 1990] [DATE OF COMMENCEMENT: SEPTEMBER, 1991]
(Afrikaans text signed by the State President)

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Largely unchanged from R146:

- Further detail on **descriptors and avoidance of misleading descriptions** + where appropriate description of 'type of treatment' the food has undergone.
- **Physical address** (not PO Box) of manufacturer, importer or seller still required.
- **Storage conditions** still required ('where applicable or where storage instructions are required to support the integrity of the date mark').
- **Trade Metrology** requirements still applicable to quantity declarations.
- **Country of origin** requirements unchanged.
- New provisions for use of **flags** + '**Proudly South African**' statement.

- **Batch code** still required for traceability purposes.
- Requirement for **manufacturing date** now added, can presumably be used as batch code.
- Changes in **date marking** requirements:
 - ‘Use by’ or ‘Best Quality Before Date’ (with new definition).
 - ‘Sell by’ and other options prohibited.

- **'Use by'** applicable 'when a food must be consumed before a certain date to ensure its safety and quality'.
- **'Best Quality Before Date'** to be used for all other products other than exemptions. Expect problems with on-line printers!
- **Day-Month-Year** is compulsory, various options for exact layout.
- **Donations** permitted for foods where 'Best Quality Before Date' exceeded providing food is safe.

IMPORTANT: No statement as to legality of selling
(as opposed to donating) foods beyond
their 'Best Quality Before Date' - legal issue?

- **List of exemptions** as per R146 with addition of salt.
- **HOWEVER:**
 - **'Date of Manufacture'** or **'Date of Packaging'** must still be added and acceptable safety must be maintained.
 - **Special storage conditions** must be indicated where these are 'required to support the integrity of the food'.

Some changes relative to R146:

- **Endorsements** permitted for quality and safety certifying entities providing certification is legally compliant.
- Non-communicable disease **endorsement bodies** must be **approved by DG of Health** and provide a **dossier** to indicate:
 - Involved in generic health promotion.
 - Independent from and not funded by commercial bodies.
 - Endorsed product is compliant with all regulations.
 - Endorsed product must be compliant with Nutrient Profiling Model.
 - Special compositional requirements for endorsement of juices.

- **Industry related endorsement logos** unless related to Food Based Dietary Guideline portion sizes.
- **Endorsements by individuals** relating to ingredient content or health/nutrition claims.
- Numerous existing **terms relating to health and nutritional characteristics**, now including **'nutraceutical', 'super-food', 'smart', 'intelligent'** and similar.
- Claims of **'balanced' or 'complete'** nutrition.
- **No medical claims** unless permitted (to be discussed later).

R146 provisions seemingly unchanged:

- **No ‘uniqueness’** claims when other products have similar characteristics.
- **‘Free from’** when similar products are also ‘free from’ unless qualifying wording used.
- **‘Free from’ for additives** permitted when the additives are not permitted for that food category, unless qualifying wording used.
- **‘No added...’** permitted when component is **naturally present** in the food.
- No claims for **packaged water**.

PART II

SPECIAL PROVISIONS

37 regulations (11-47)

11. Seasonal ingredients
12. Order of ingredients
13. Variable proportions
14. Ingredients in any order
15. Naming of ingredients
16. Colouring foods
17. Indication of meat species
18. Raw-processed meat
19. QUID
20. Compound ingredients
21. Added water
22. Caffeine | Alcohol
23. Fats & oils
24. Bulk stock
25. Small packages
26. Storage instructions
27. Vending machines
28. Pictorial representation
29. Pre-packaged additives
30. Additives
31. Flavourings
32. Tartrazine
33. Preservatives
34. Anti-oxidants
35. Artificial sweeteners
36. Modified starches |
Processing aids | Carry over
37. Allergens
38. Uncommon allergens
39. Allergen cross contamination
40. Allergen claims: Gluten free
41. Allergen claims: Hypoallergenic
42. Misleading descriptions
43. Irradiation
44. Frozen foods
45. Vegetarian claims
46. Nutrition information facts
47. Additional requirements for
nutritional information table

- **Order of ingredients:** Place in order any ingredient in concentrated form must be listed for re-constituted rather than as-packed product.
- **Seasonal & variable proportions** sections unchanged.
- Herbs and spices to be named individually, if comprising less than 2% of product can be stated as a single item at end of ingredient statement.
- Special descriptors for **engineered nanomaterials** + new definition.

- **New colour regulations** not yet published and long overdue, unaligned with Codex however:
- **‘Single ingredient agricultural commodities’** with colouring properties can be described as ‘natural colouring foods’ after the name of the ingredient.

IMPORTANT: Appears to exclude colour extracts from plant sources.
Something for the colour suppliers to take up?

New provisions related to meat

- New provisions for **mechanically recovered meat** – must be described as such and comply with SANS 885 & SANS 1675.
- **Meat Quantitative Ingredient Declaration (QUID):**
 - Compulsory QUID in ingredient statements for products with >25% meat content.
 - Compulsory statement of meat content on main panel with bold lettering >3mm height for products with <25% meat content .
- **Indication of meat species** required for both labels or ‘in the direct vicinity of where the product is exhibited for sale’.
- Only meat and fish species in **SANS 1647** to be used in foods.

Mainly unchanged relative to R146

BUT meat again in the firing line:

- QUID for meat content and water contents required on the main panel.
- Meat content to be total meat in the final product.
- Water to include that added via glaze and inside the product as 'formulated solution'.
- **IMPORTANT:** Presumably includes that injected as brine.

QUID still not compulsory for products with compulsory APS specifications other than:

- Processed meats as per [SANS 885](#).
- Raw processed meats other than biltong & droewors.
- Blended fruit juices, fruit nectars and fruit drinks but not blended fresh fruit juices.

IT'S COMPLICATED

Wording unchanged relative to R146:

BUT flavouring blends used in snackfoods are classified as compound ingredients and must be labelled accordingly – many manufacturers already doing this.

Added water to be declared unless:

- Used for reconstitution of a dry ingredient.
- Part of a brine or syrup which is declared. **IMPORTANT:** Must still be stated for raw processed meats.
- Water is <5%.

IMPORTANT: Must still be stated for raw processed meats.

Largely unchanged from R146:

- Details of **fat sources** and, where relevant, part of plant from which fat is derived, still have to be stated.
- Use of **hydrogenation** still has to be specified.
- For **blended products** including margarines / fat spreads, only pictorial representation of largest single source in the blend can be depicted on the label.

Bulk stock/ Small packages/ Storage instructions

- Bulk stock containers must be labelled with readily visible required information.
- New provision for bulk stock dealing with potential non-legibility of labelling on wholesale multipacks due to external packaging (shrink-wrap or similar) – certain information must be clearly visible on external multipack.
- Small package requirements (external area <2000m² / condiments <10g / confectionery <25g) must include date of manufacture and FOPL.

Space considerations ?

- R146 storage conditions provision unchanged.

Provisions regarding misleading pictorial representations remain.

- Addition relating to garnishes and foods not present in the packet – must not ‘dominate’ the graphics.

No mention of restrictions on ‘serving suggestion’ so presumably this will continue.

- Requirement to **declare category of food additive** rather than chemical name for most additives remains.
- However: a series of **sub-categories** have also been introduced for use 'where it is preferable'.
- E number or INS number must be used in conjunction with category / sub-category name.
- If no E / INS number stated, chemical name must be stated.
- No indication of whether a combination of E / INS numbers and chemical names can be used in an ingredient statement.

No clarity on when statement of sub-category must be made.

CLASS NAMES AND THE INTERNATIONAL NUMBERING SYSTEM FOR FOOD ADDITIVES

CXG 36-1989

Adopted in 1989. Revised in 2008. Amended in 2018, 2019, 2021.

Sections 3 and 4 "International Numbering System for Food Additives" are regularly updated.

- Still no provision for **‘natural’, ‘nature identical’ or ‘artificial’** flavour classification – just state ‘flavouring’.

What will the flavour industry say about that?

- **Flavour-only** products must state ‘flavoured’ in descriptors. Products with combination of flavouring and ‘real thing’ excluded (but check APS requirements where applicable).
- **Tartrazine** still has to be specified.
- **Preservative** wordings unchanged from R146.
- New wordings for **anti-oxidants**:
‘Antioxidant as an additive’ + chemical name.

- Regulation incorporates many of provisions of **R733** sweetener regulations.
- Classification of **polyols as artificial sweeteners** very controversial and could be contested.
- **Warning** of laxative effect for polyols retained if >50g/kg and 250g/kg for chewing gum.
- **Aspartame** declaration re phenylalanine extended to aspartame-acesulfame salt.
- **Descriptor for modified starches** must include method of modification.

Sorbitol		Saccharin
Mannitol		Aspartame
Erythritol	≠	Sucralose
Xylitol		Neotame
etc		Steviol glycosides

Contradicts reg 71 – Oral health claims

- Additives present due to **carry-over effect** at levels sufficient to perform a technological function in the finished product must be declared.
- If level insufficient to perform a function in the finished product, no declaration required.
- However: Additives derived from a **common allergen** must be declared irrespective of dosage.
- **Processing aids** don't have to be declared – definition of 'processing aid' supplied.

- Either **bold font** to be compulsory for common-allergen containing ingredients in ingredient statements OR **separate list** of common allergens.
- **'Milk'** regarded as cow's milk unless otherwise stated.
- More detail of **materials derived from common allergens** which are exempted from allergen declarations.

NOTE: Wording is confusing

- **Uncommon allergens** to be declared by manufacturers to consumers and inspection staff on request.
- Special wordings for **goat's milk and lupin**.
- Provisions for **allergen cross-contamination** unchanged including requirement for allergen control programs.

- Prescribed wordings and quantification conditions for **gluten-free products** unchanged from R146 and includes Codex methodology requirement.
- Provision for '**pseudocereals**' including definition.
- Requirement for **gluten free oats** added.
- Provisions for other **allergen-free claims** unchanged from R146.

Provisions appear to be unchanged from R146 BUT...

- Reference to [Guideline 12](#).

Where are the guidelines?

All largely unchanged from R146:

- Small wording changes for **frozen foods**.
- **Vegetarian claims** refer to [Guideline 8](#).

- Various **options** now available:
 - Nutritional Information / Facts
OR
 - Typical Nutritional Information / Facts
- All followed by:
 - Mass or volume of a single portion / serving
AND
 - Number of single portions / servings per container
AND
 - Description of a single portion / serving in ‘household terminology’
 - Above to be placed below the heading or as a column header.

- **Nutritional information now compulsory on all foods except:**
 - Foods produced by a **small producer** (see definition) and **street vendors**.
NOTE: No claims permitted on these unless nutritional table is included
 - **Certain food categories exempted** including baking powder, beer, coffee and coffee/chicory extracts, herbs & spices, honey, plain vinegars, teas (providing only flavourings & no other additives present).
- **Bread** requires nutritional information (fortification regulations) BUT when no claims other than the fortification logo it is exempted from using analysis values **other than total sodium as per sodium reduction regulations**.

- Prescribed layout is set out in Annexure 2.
- **2 similar but not identical formats** depending on whether or not a claim is made.

NEW: Number of single portions per container must be stated as well as serving size in 'household terminology or measurements'.

- **Unit of measurement** can now be expressed in same column as name of nutrient or in separate column.

- **Energy** must be declared in kJ (presumably kcal can also be added).
- **Energy value calculations** now very complex – to be discussed later.
- **Total sodium value** can be converted to salt equivalent and stated as ‘salt’ but both must be stated if salt equivalent is used.

May be desirable to push back on salt equivalent approach.
This is the European Union approach but it is arguably confusing,
particularly if total sodium is declared anyhow.

Nutritional information – Layout for no claims packs

(Typical) Nutritional Information / Facts

Serving size:

Servings per pack:

Serving size in 'household terminology':

	Unit of measurement	Per 100g/ml	Per single serving	Per single serving reconstituted (where applicable)	% NRV supplied per serving (N.B. this column is optional)
Energy	kJ				
Protein	g				
Total carbohydrate	g				
Of which carbohydrates#	g				
Of which total sugars	g				
Glycaemic polyols##	g				
Dietary fibre	g				
Total fat### of which	g				
Saturated fatty acids###	g				
Total sodium / salt	mg				

- Add statement if relates to **product as packed OR ready-to-eat** (unless reconstituted RTE values are given).
- **#** Available carbohydrate determined by difference.
- **##** Indicate if specific polyols contribute to total energy value.
- **###** Total fat and saturated fatty acids obtained from food composition tables.
- **Method for determination of total fat value:** 'Chemically analysed' + method number OR value obtained from (name source).

Nutrition Information – Layout for packs with claims

(Typical) Nutritional Information / Facts

Serving size:

Servings per pack:

Serving size in 'household terminology':

	Unit of measurement	Per 100g/ml	Per single serving	Per single serving reconstituted (where applicable)	% NRV supplied per serving (N.B. this column is optional)
Energy	kJ				
Protein	g				
Total carbohydrate	g				
Of which carbohydrates#	g				
Of which total sugars	g				
Glycaemic polyols##	g				
Dietary fibre	g				
Prebiotics	g				
Total fat### of which	g				
Saturated fatty acids####	g				
Trans fatty acids	g				
Monounsaturated fatty acids	g				
Polyunsaturated fatty acids:	g				
Of which Omega-3 fatty acids	mg				
Of which DHA	mg				
EPA	mg				
DPA	mg				
ALA	mg				
Total sodium / salt	mg				

- Add statement if relates to **product as packed OR ready-to-eat** (unless reconstituted RTE values are given).
- **Values for trans, monounsaturated, polyunsaturated (including omega-3) fatty acids** only required if conditions for claim require them.
- **#** Glycaemic carbohydrate chemically analysed when any carbohydrate claim is made.
- Methods for dietary fibre to be specified if dietary fibre claims are made.
- **##** Indicate if specific polyols contribute to total energy value.
- **###** Total fat and saturated fatty acids obtained by analysis with statement of methods for determination of total fat value: 'Chemically analysed' + method.

- Macronutrients expressed to maximum 1 decimal place.
- Micronutrients expressed to maximum 2 decimal places.
- Rounding off downwards for beneficial nutrients and upwards for undesirable nutrients.

Goes against established global practice

- Where quantities are too small to be measured by established analytical procedures, can state 'trace' or '<level of detection'.

- **Serving sizes** must not be ‘manipulated’ for purpose of recommending excessively large portions or to enable nutrient or health claims and should be based on those recommended by health professionals.
- Serving sizes to be stated in ‘**descriptive household measurements**’.

What is a descriptive household measurement?

- **Changes to product composition** resulting in revised nutritional composition must ‘corrected without delay’ on packaging.

Nutritional information – Laboratory procedures

Refers to ‘reputable laboratory’ with no definition but was in R429

- **Prescribed requirements for analysis reports** including number of samples, full product details and date of manufacture.
- Results must be based on **weighted average** of representative set of samples.
- **Sampling procedures according to Codex** Guideline on sampling and record of sampling process to be kept by manufacturer.

Certificate Of Analysis

		Our Lab Reference Number: 2020-02-03-143	
		Laboratory Sample ID: AM98253	
Product:	Instant Porridge (Whole wheat, soy and chick pea flour)		
Client Sample ID:	Extruded instant porridge		
Batch Code:		Test Date:	03-February-2020
Barcode:		Sampling Date:	
Sample Condition:	As Received	Best Before Date:	29-July-2020
Production Date:	29-January-2020	Use-By Date:	
Sell-By Date:	29-July-2020		
TEST TYPE	TEST METHOD REF	MOU (%)	RESULT
Moisture (g/100g)	S.O.P.C. No. 1	1.44	5.7
Ash (g/100g)	S.O.P.C. No. 2	4.52	3.02
Total Fat (g/100g)	S.O.P.C. No. 25	6.00	5.06
Saturated Fat (g/100g)	S.O.P.C. No. 25	6.00	1.37
Mono-Unsaturated Fat (g/100g)	S.O.P.C. No. 25	6.00	1.31
Poly-Unsaturated Fat (g/100g)	S.O.P.C. No. 25	6.00	2.38
Trans Fat (g/100g)	S.O.P.C. No. 25	6.00	0.00
Omega 3 Fatty Acids (g/100g)	S.O.P.C. No. 25	6.00	0.218
ALA (g/100g)	S.O.P.C. No. 25	6.00	0.218
EPA (g/100g)	S.O.P.C. No. 25	6.00	0.000
DHA (g/100g)	S.O.P.C. No. 25	6.00	0.000
DPA (g/100g)	S.O.P.C. No. 25	6.00	0.000
Omega 6 Fatty acids (g/100g)	S.O.P.C. No. 25	6.00	2.2
Nitrogen (g/100g)	S.O.P.C. No. 36	1.90	2.56
Protein (g/100g) (6.25)	S.O.P.C. No. 36	3.01	16.0
Total Dietary Fibre (g/100g)	S.O.P.C. No. 20	13.76	7.4
Carbohydrates by difference (g/100g)*	S.O.P.C. No. 21	C*	62.7
Total Sugar (g/100g)	S.O.P.C. No. 52	5.42	19.9
Fructose (g/100g)	S.O.P.C. No. 52	5.42	0.5
Glucose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Sucrose (g/100g)	S.O.P.C. No. 52	5.42	17.5
Maltose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Lactose (g/100g)	S.O.P.C. No. 52	5.42	1.8
Galactose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Trehalose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Energy (kJ/100g)*	S.O.P.C. No. 22	Calc	1585

- Results to be **verified every 3 years.**
- **Analysed by prescribed methods** including Codex approved methods or SANAS accredited methods.
- Principles for **tolerance limits** set out and must be determined by the laboratory concerned with reference to relevant Codex Guidelines.

Certificate Of Analysis

		Our Lab Reference Number: 2020-02-03-143	
		Laboratory Sample ID: AM98253	
Product:	Instant Porridge (Whole wheat, soy and chick pea flour)		
Client Sample ID:	Extruded instant porridge		
Batch Code:		Test Date:	03-February-2020
Barcode:		Sampling Date:	
Sample Condition:	As Received	Best Before Date:	29-July-2020
Production Date:	29-January-2020	Use-By Date:	
Sell-By Date:	29-July-2020		
TEST TYPE	TEST METHOD REF	MOU (%)	RESULT
Moisture (g/100g)	S.O.P.C. No. 1	1.44	5.7
Ash (g/100g)	S.O.P.C. No. 2	4.52	3.02
Total Fat (g/100g)	S.O.P.C. No. 25	6.00	5.06
Saturated Fat (g/100g)	S.O.P.C. No. 25	6.00	1.37
Mono-Unsaturated Fat (g/100g)	S.O.P.C. No. 25	6.00	1.31
Poly-Unsaturated Fat (g/100g)	S.O.P.C. No. 25	6.00	2.38
Trans Fat (g/100g)	S.O.P.C. No. 25	6.00	0.00
Omega 3 Fatty Acids (g/100g)	S.O.P.C. No. 25	6.00	0.218
ALA (g/100g)	S.O.P.C. No. 25	6.00	0.218
EPA (g/100g)	S.O.P.C. No. 25	6.00	0.000
DHA (g/100g)	S.O.P.C. No. 25	6.00	0.000
DPA (g/100g)	S.O.P.C. No. 25	6.00	0.000
Omega 6 Fatty acids (g/100g)	S.O.P.C. No. 25	6.00	2.2
Nitrogen (g/100g)	S.O.P.C. No. 36	1.90	2.56
Protein (g/100g) (6.25)	S.O.P.C. No. 36	3.01	16.0
Total Dietary Fibre (g/100g)	S.O.P.C. No. 20	13.76	7.4
Carbohydrates by difference (g/100g)*	S.O.P.C. No. 21	C*	62.7
Total Sugar (g/100g)	S.O.P.C. No. 52	5.42	19.9
Fructose (g/100g)	S.O.P.C. No. 52	5.42	0.5
Glucose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Sucrose (g/100g)	S.O.P.C. No. 52	5.42	17.5
Maltose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Lactose (g/100g)	S.O.P.C. No. 52	5.42	1.8
Galactose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Trehalose (g/100g)	S.O.P.C. No. 52	5.42	0.0
Energy (kJ/100g)*	S.O.P.C. No. 22	Calc	1585

- Information used for making claims must be obtained by analysis only.
- No claims based on nutritional content of materials not in the pack and presumably used for reconstitution (e.g. cereal + milk).
- No claims based on composition of an 'ingoing unprocessed single ingredient agricultural product if the same ingredient is being processed during manufacturing'.

NEW: When claims are made, the nutritional information table for any product that can only be consumed after addition of other ingredients and further processing or cooking as per manufacturer's instructions must include a further column giving the nutritional information per 100g of the prepared product.

Example: CHECKERS FORAGE & FEAST HOT CHOCOLATE

Suggested make-up 25g + 200ml milk

MAKE-UP	TOTAL SUGARS per 100g	SATURATED FAT per 100g
As is	63.8	6.1
With full cream milk	11.4	2.4
With skim milk	11.4	0.8
With water	7.1	0.7

Example: JUNGLE OATSO EASY

Suggested make-up 50g + 180ml water

MAKE-UP	TOTAL SUGARS per 100g	SATURATED FAT per 100g
As is	18.1	4.3
With water	3.93	0.93
With skim milk	7.69	1.01
With full cream milk	7.69	2.42

Wording is somewhat confusing and repetitive but it appears that nutritional information can be obtained from:

- Supplier information file.
- Laboratory analysis.
- By calculation from supplier information files for multi-ingredient products.
- Prescribed method for carbohydrate calculation while total sugars must be 'analysed or inputted from other sources'.

Complex and confusing and unlikely that they will be used correctly or be enforced.

- There are 2 sets of conversion factors:
 - Rounded-off for use with ‘...mixtures of proteins, mixtures of glycaemic carbohydrates, mixtures of fats, mixtures of polyols, mixtures of dietary fibres or mixtures of prebiotics’.
 - Unrounded-off for use ‘...where an individual isolated mono- or disaccharide sugar, isolated polyol, or isolated dietary fibre component such as non-starch polysaccharides (NSP) or resistant starch is added to a food.

Difference between the 2 sets of values is minimal so why?

- There is also a series of ‘estimated glycaemic carbohydrate contents of various polyols’ including deemed energy conversion values.

This whole section and the previous section on rounding-off are not aligned with Codex

Nutritional information – Other reference points (Annexure 2)

- Conversion factors for **total nitrogen** → **protein** appear to be unchanged.
- **Many NRV's have changed:** protein, Vit A, Vit B₂, Vit B₃, Vit B₆, Vit E, Vit K, Ca, Cr, Cu, Fe, Mg, Mn, P, Se, Zn.
- NRV's for **boron** (1-3 years only) & **vanadium** added
- Recommendations for **daily intake of saturated fat, potassium and sodium.**
- Main changes are big reductions in NRV's for **calcium and phosphorus.**
- **NRV's** stated to be for persons >36 months of age.
- Various **specified conversion factors** for Vit A, Vit B₃, folate, Vit D, Vit E.
- **Reference pattern for amino acids** altered relative to R146.
Lysine and methionine + cystine values have increased significantly.

PART III

GENERAL INFORMATION ON CLAIMS

10 regulations (48 – 57)

- 48. General information & conditions
- 49. Enrichment of foodstuffs
- 50. Nutrient profiling model (claims)
- 51. Profiling model (FOPL / Advertised to children)
- 52. Marketing restrictions
- 53. Use of Food Based Dietary Guidelines
- 54. Claims on packaged water
- 55. Foods containing added fructose/non-nutritive sweeteners
- 56. Fake foodstuffs
- 57. Cosmetic claims
- 58. Claims represented through pictures

- **Only nutrition/health claims permitted are those included in the regulations.**
- **For single ingredients:**
 - Must be the end product intended for sale.
Example: Tea.
 - Must have no further processing in the manufacturing process when used as an ingoing ingredient of a compound food.
Example: Vitamin in a dry mix product such as a cereal.
- Applies to **generic names, brand names, trade-mark names.**

Already applied from
1 May 1995

Names must **not mislead consumers**

by being related to nutritive/health giving properties through a play on words or that could be interpreted as a claim (energy, nutrition, non-addition of sugar/salt, ingredient content, health)

UNLESS...

Eligible based on nutrient profiling model and complies with claim requirements.

Already applied from
1 May 1995

- Provision of information in nutrition information table is not considered a claim provided that it is in no ways **emphasised**/is not a **scheduled substance** (Medicines Act).
- Foods produced by **small producers**¹ or **street vendors**² may not make any nutrition/health claim.

¹Qualifying Small Enterprise or Exempt Micro Enterprise in BEE revised Codes of Good Practice.

² Person who offers goods or services for sale to the public without having a permanently built structure but with a temporary static structure or mobile stall or with their goods laid out on the sidewalk.

- No nutritional labels, label systems, panels or simplified nutritional information are permitted on the labels of foods **other than the FOPL** required under [regulation 51](#).

Nutrient cut off values to determine if:

1. Front of pack labelling (FOPL) is required
2. Food may be advertised to children
3. Step 1 in assessment of suitability for nutrition & health claims

BRAZIL



PERU



CHILE



ISRAEL



MEXICO



MANY MORE COMING...

All products will need to go through
this nutrient profiling
as it has many consequences for what a
product CAN and CANNOT do...

Profiling Model for purposes of:

- Front of pack labelling
- Foods that may not be advertised to children

Applies to **pre-packaged foods**

NUTRIENT	CUT OFF AS PER VALUE INDICATED IN NUTRITIONAL INFORMATION TABLE
TOTAL SUGAR(S) in g	Solids*: $\geq 10\text{g}$ per 100g Liquids*: $\geq 5\text{g}$ per 100ml
TOTAL SATURATED FATTY ACIDS in g	Solids: $\geq 4\text{g}$ per 100g Liquids: $\geq 3\text{g}$ per 100ml
TOTAL SODIUM in mg	Solids: $\geq 400\text{mg}$ per 100g Liquids: $\geq 100\text{mg}$ per 100ml
ARTIFICIAL SWEETENERS	
CONTAIN ANY ARTIFICIAL SWEETENER	Bear the applicable logo

*Solid or liquid based on ordinary use and unit of measurement indicated on the label as required by other legislation

Profiling Model for purposes of:

- Front of pack labelling
- Foods that may not be advertised to children

Foods that require further processing (preparation, baking, cooking, mixing) after addition of ingredients not included in the food as sold...

Values for assessing compliance with the cut-offs is the column of the nutritional information and facts containing values of the prepared product as per manufacturers instructions as required in [Reg 47\(8\)\(b\)](#).

- **Front of the package.**
- Must be placed in the **top right corner.**
- Cover **25%** of front of the package - Specifications given in **annexure 10.**

This contradicts annexure 10
1 =10% | 2=15% | 3=20% | 4=25%

- Provides formula for calculating principal display panel.
- Provides ratios are for the surface area of the front of the package and the minimum width of a single logo for purposes of legibility.

There is lots of repetition in this section – Needs cleaning up.

Front of pack labelling logo: Requirements

- Must **follow specifications** for logo design, colour, dimensions, background as per [Annexure 10](#).
- Be **prominently displayed** – not obscured, removed, damaged.
- Use of **stickers** permitted where the size of the package or existing label cannot accommodate the size of the label.
- **Exclamation mark** appears first (anchoring logo).
- Followed by **sugar, saturated fat, sodium, artificial sweeteners**.



- **Does not replace mandatory nutritional information table.**
- **MAY NOT:**
 - Be used for any **other nutrient**.
 - Be **marketed to children**.
 - **Make any claim** with an energy, health, nutrition message irrespective of it passes the Nutrient Profiling Model in [regulation 50](#).
 - Be **enriched**.
 - Bear any **endorsement logo** related to reducing the risk of any non-communicable disease.

Definition not included but Children's Act defines 'children' as persons below the age of 18

Applies to all foods that carry a **FOPL**.

MAY NOT:

1. **Depict or reference** celebrities, sports stars, cartoon-type characters, puppet, computer animation or similar.
2. **Depict or reference** a competition, token, gift. Collectable item with appeals to children.
3. **Abuse** positive family values – portraying happy, caring family scenario on the label.
4. **Encourage or condone** excessive consumption/portion sizes.
5. **Undermine** the promotion of healthy, balanced diets.
6. **Encourage/promote** an inactive lifestyle.

MAY NOT:

7. **Encourage/promote** unhealthy eating/drinking habits.
8. **Omit** undesirable aspects of a foods nutritional profile.
9. **Contain** any misleading/incorrect information about the nutritional value of the product.
10. **Be represented** as a substitute for meals.
11. **Be misleading** about the potential benefits from consumption of unhealthy foods.
12. **Create** a sense of urgency designed to encourage purchase or consumption.

MUST:

- 1. Include FOPL in any advertising** depicting the products.
- 2. Carry a health message** (provided) on visual or multimedia adverts OR at the end of an audio advert that is:
 - Visible/Audible.
 - Not affected by other matter, printed or otherwise.
 - On a space specifically devoted for it.
 - Be at least 1/8 of the total size or length of the advert.
 - Be in black on a white background.

Health Message:

This product is high in [insert key nutrients / contains artificial sweeteners].

Excessive consumption may be detrimental to your health.

Subject to certain regulations and most recent Codex '*General Principles for the Addition of Essential Nutrients to Goods CAC/GL 9-1987*'

nutrients may only be added to foods which:

- Require a **list of ingredients**.
- Is **not a fake food**.
- Is **not required to bear a FOPL**.

- **Vitamins and minerals** added for enrichment or fortification:
 - May not exceed 100% NRV per single portion/serving
 - Must be a approved compound in most recent Codex '*List of Nutrient Compounds for Use in Foodstuffs for Special Dietary Uses intended for Infants and Young Children*'.
- Enrichment with any nutrient or common allergen is not permitted for **raw processed meat/poultry**.
- Enrichment with any nutrient not permitted for **fake foods, beer and products under the Liquor Products Act**.
- Foods required to carry a **FOPL** may not carry any claims of enrichment.

MAY ONLY BE USED IF:

- Product **passed nutrient profiling model** so the product is **not required to have FOPL**.
- **Exactly as appears in guideline 9.**

Missing from document

- **Relevant/appropriate** to the foods group and type of product.
- Product **complies with these regulations.**
- Product complies with **regulation 55** related to **containing purified, crystalline fructose or added non-nutritive sweeteners.**

Food containing added purified, crystalline fructose or added non-nutritive sweeteners

MAY NOT:

- Make any **claim** with a nutrition or health message.
- Carry any **endorsement** logo unless conclusive scientific proof can demonstrate (as per [guideline 15](#) – missing from document):
 - Benefits to health in general + reduction in risk of non-communicable disease including obesity.
 - Substances does not contribute to the risk of developing any disease in the long term (> 20 years).

MUST:

- Carry a **standard warning**.
- On **main panel** of label.
- In **bold, black letters**.
- Letters **not less than 3.0mm** in vertical font height.

High intakes of fructose daily may lead to metabolic complications such as high plasma cholesterol, triglycerides or LDL, insulin resistance and abdominal obesity.

MAY NOT make claims related to energy, nutrition, ingredient content or health through:

- Pictures.
- Logos.
- Other visual/s.
- Non-textual marketing.

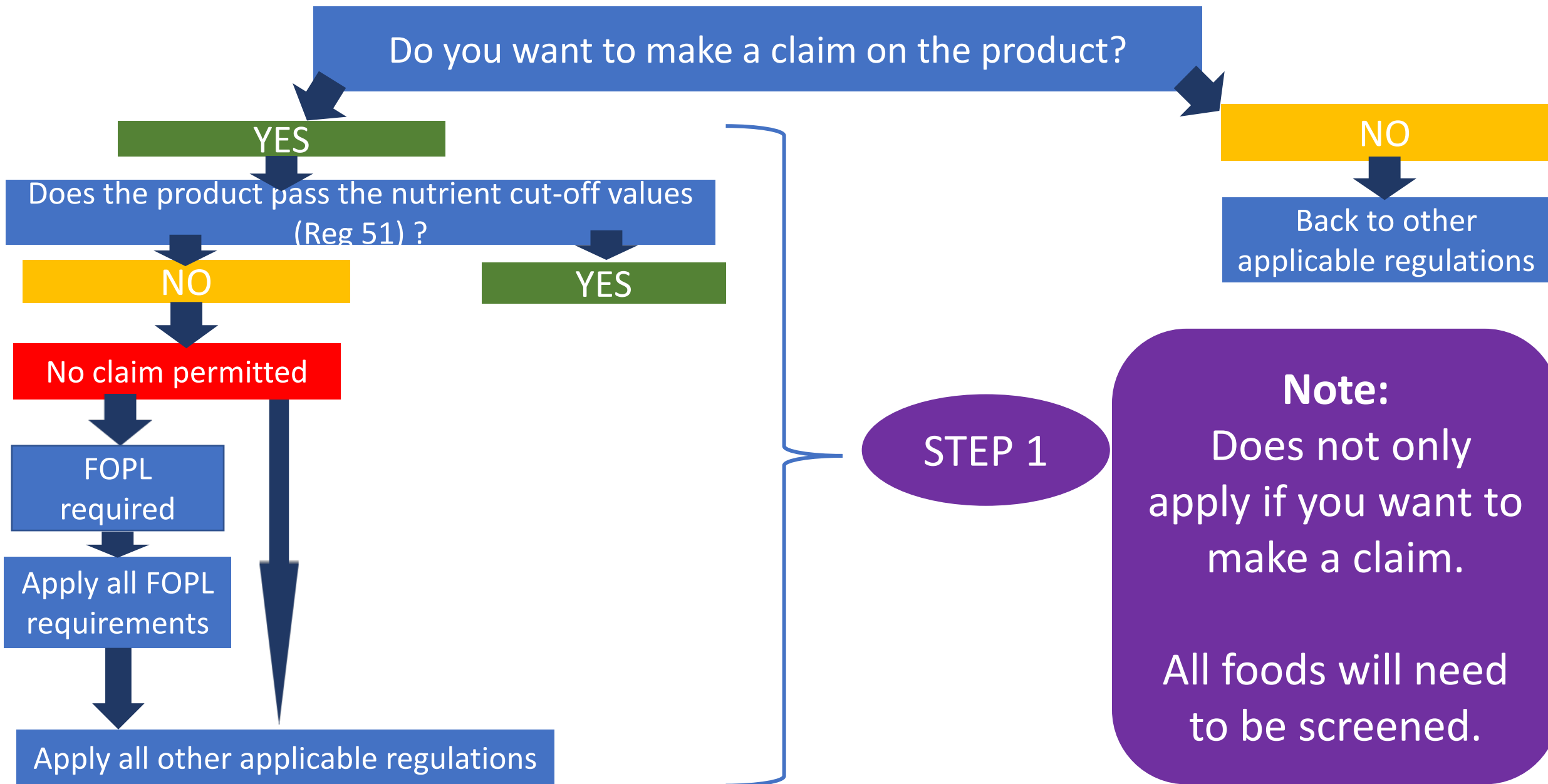
IF

- Product **cannot be marketed to children.**
- **Implies an unauthorised claim** according to these regulations.
- **It is misleading.**

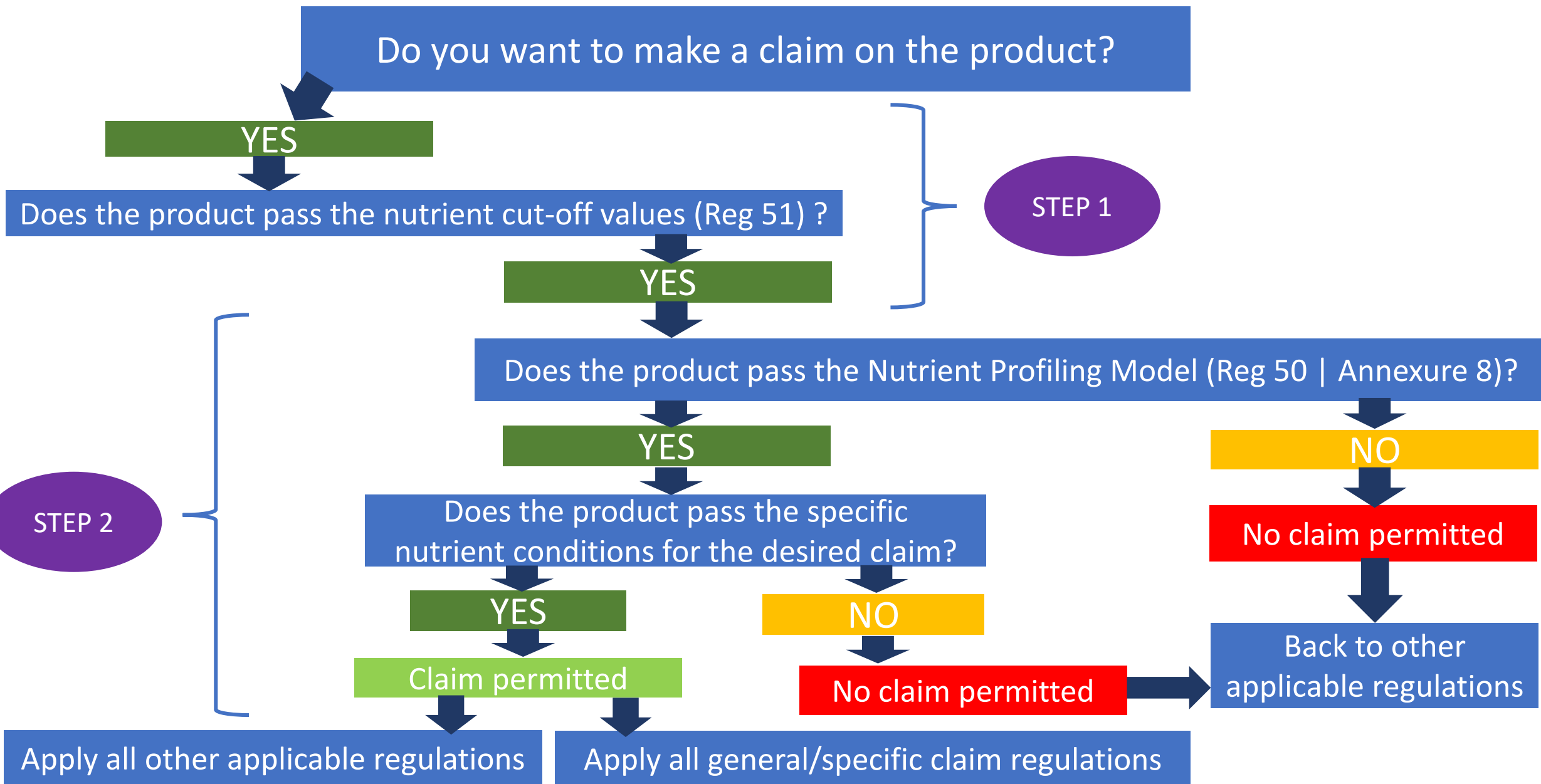
Jane

NUTRIENT PROFILING MODEL
for purposes of screening foods
for their eligibility to make
any claim with a
nutrition or health message

Decision tree for claims



Decision tree for claims



Nutrient Profiling Model for purposes of screening foodstuffs for their eligibility to make any claim with a nutrition or health message

- All foods **MAY NOT make a claim** with a nutrition or health message or use any **endorsement logo IF:**
 - Required to bear a FOPL.
 - Exceeds the cut-offs for key nutrients in [regulation 51](#).
 - Produced by a small business. [Street vendor not included here but is in regulation 48](#)
- **MAY NOT make a claim** with a nutrition or health message **UNLESS:**
 - Displays a nutritional information table.
 - Passes the Nutrient Profiling Model.
[Electronic calculator](#) and [annexure 8](#). [Calculator not available on DoH website](#)
 - Complies with the criteria specific to the claim.
 - Complies with [regulation 55](#) dealing with added, purified, crystalline fructose OR added non-nutritive sweeteners.

Nutrient Profiling Model for purposes of screening foodstuffs for their eligibility to make any claim with a nutrition or health message

Annexure 8 | Web-based calculator

Calculator not available on DoH website

- 3 categories of food.
- Nutrient profiling score allocated to each food.
- Score determines if eligible to make a nutrition/health claim.

CATEGORY NO	PRODUCTS	NURIENT PROFILING SCORE MUST BE LESS THAN:
1	Beverages.	1
2	Any food other than those in category 1 and category 3.	4
3	<ul style="list-style-type: none"> • Cheese & processed cheese with calcium content >320mg/100g. • Edible oil. • Edible oil spreads. • Margarine. • Butter. 	28

PART IV

NUTRITION CLAIMS

9 regulations (58 – 66)

- 59. Nutrient claims
- 60. Dietary fibre claims
- 61. Protein claims
- 62. Fatty acid claims
- 63. Omega-3 claims
- 64. Antioxidant content claims
- 65. Ingredient content claims
- 66. Comparative claims
- 67. GI & GL claims

- Only claims covered in this regulation are permitted.
- **APPLIES ONLY TO** ready-to-use foods.
- **Content claims** must comply with **applicable conditions** and use **exact wording** (Table 2).

Table 2 has 3 parts:

- **Part A: Very low / Low / Virtually free / Free from.**
Energy / Fat / Saturated fatty acids / Cholesterol / Sugars / Sodium.
 - **Part B: Source of / High in / Contains / With added / Excellent source.**
Energy / Dietary fibre / Protein / Polyunsaturated fatty acids / Monounsaturated fatty acids / Omega-3 fatty acids / Vitamins / Minerals / Beta-carotene / Lycopene / Lutein / Zeaxanthin.
 - **Part C: Non-alcoholic / De-alcoholised / Virtually free / Free / Free from.**
Alcohol/Caffeine.
- **MAY NOT** substitute words provided in table 2.

MUST: Meet requirements in table 2.

CONDITION	CLAIM
Solids: 170kJ per 100g Liquids: 80kJ per 100ml	Low
Liquids: 8kJ per 100ml	Virtually free Free from
Liquids: 80kJ per 100ml	Source of
Solids: 950kJ per 100g Liquids: 250kJ per 100ml	High in

Possible error as no source of claim permitted for solid foods

MUST:

- **Meet requirements** in [table 2](#).

CONDITION Not less than	CLAIM
Solids: 10g per 100g Liquids: 5g per 100g	Source of Contains With added
Solids: 10g per 100g Liquids: 5g per 100g Solids & liquids: 5g per 418kJ	High in

- **Provide protein quality** of which the analysed amino acids must contain at least 100% of each of the amino acids as per reference pattern in [Annexure 4](#)

Nutrient content claims: Total fat Conditions

MUST: Meet requirements in [table 2](#).

FATTY ACID	CONDITION Not less than	CLAIM
Fat	Solids: 3g per 100g Liquids: 1.5g per 100ml	Low
	Solids: 0.5g per 100g Liquids: 0.5g per 100ml	Virtually free Free from

Nutrient content claims: Conditions

Saturated fat | Cholesterol

MUST: Meet requirements in [table 2](#).

FATTY ACID	CONDITION Not less than	CLAIM
Saturated	Solids: 1.5g per 100g Liquids: 0.75g per 100ml Solids/Liquids: not more than 10% energy	Low
	Solids: 0.1g per 100g Liquids: 0.1g per 100ml	Virtually free Free from
Cholesterol	Solids: 20mg per 100g Liquids: 10mg per 100ml	Low
	Solids: 5mg per 100g Liquids: 5mg per 100ml	Virtually free Free

Nutrient content claims: ALL fatty acids (except Omega-3 fatty acids) Labelling

MUST PROVIDE:

Real analytical values in the nutritional information tables immediately after the declaration of total fat.

Total fat	...g
of which saturated fatty acids	...g
of which trans fat	...g
monounsaturated fatty acids	...g
polyunsaturated fatty acids	...g
Cholesterol	...g

Ingredient nutrient content claims: Meat and poultry – trim / lean / extra lean / similar

- **APPLIES TO** minced meat / processed meat / fresh, raw-processed meat & poultry.
- The **percentage fat** must be indicated on:
 - The scale label.
 - Following the product name.

CLAIM	CONDITION
Lean / Trim / Trimmed of fat / Other similar wording	≥ 5 to $\leq 10\%$ of fat as analysed
Extra lean / Extra trim / Other similar wording	$\leq 5\%$ of fat as analysed

Ingredient nutrient content claims: Non-addition of sodium salts

Claims such as no added salt regarding the non-addition of sodium salts to a food MAY BE MADE IF:

- It contains no added sodium salts.
- It contains no ingredients that contain added sodium salts.
- It contains no ingredients that contain sodium salts that are used to substitute for added salt.

Non-addition claims:

9

“non-addition claim” means any claim that sodium chloride or any sodium salt or any mono- and disaccharide-containing ingredient has not been added to a foodstuff, either directly or indirectly where the ingredient is one whose presence or addition is permitted in the foodstuffs and which consumers would normally expect to find in the foodstuff.

48

Generic names, brand names or trade-mark names or parts thereof relating to nutritive or health-giving properties may not make claims unless the product passed the nutrient profiling model.

A claim which compares fat / saturated fat / cholesterol / total sugar / total sodium / salt content / energy value of 2 or more foods **manufactured by the same company using reduced / less than / fewer / light / lite / similar words **CAN BE MADE IF:****

- The foods being compared are different versions of the same or similar foods which should be described in such a manner that they can be readily identified by consumers.
- The foods are clearly labelled with:
 - A statement of the amount of difference expressed as a percentage.
 - The identity of the foods being compared in close proximity to the comparative claim.

A claim which compares fat / saturated fat / cholesterol / total sugar / total sodium / salt content / energy value of 2 or more foods manufactured by the same company using reduced / less than / fewer / light / lite / similar words CAN BE MADE IF:

- The comparison is based on a relative difference of:
 - At least 25%.
 - A minimum absolute difference of not less than 15% of the NRV for micronutrients.
 - For energy: A minimum absolute difference of not less than an equivalent value to the figure defined as 'low' for energy in [Table 2](#).
- The comparison is based on an equivalent mass / volume / single portion/serving.
[Guideline 11](#).

A claim which compares fat / saturated fat / cholesterol / total sugar / total sodium / salt content / energy value of 2 or more foods manufactured by the same company using reduced / less than / fewer / light / lite / similar words CAN BE MADE IF:

- The food is labelled with the mandatory minimum nutritional information as well as nutritional information relative to the comparative claim for both foods.
- The claim includes:
 - The specific nutrient being compared.
 - A full description of the 2 foods being compared.
 - The exact amounts of the 2 foods being compared.

A comparative claim such as more than / increased or that directly or indirectly compares the micronutrient content of a food with that of another food is prohibited for physiologically beneficial nutrients such as vitamins, minerals, bioflavonoids, carotenoids or other beneficial foods constituents, except for the cases mentioned in sub-regulation (6) UNLESS:

- The comparison is based on an absolute difference of at least an equivalent to the figure defined as 'high in' (30% NRV) in [table 2](#).
- Is labelled as per all the required comparative labelling requirements.

A food that is required by the **Regulations Relating to the Reduction of Sodium in Certain Foodstuffs (2017)** to reduce the sodium content of certain foods according to the targets specific to the specific target dates may use the following statement:

‘Reduced Sodium or salt according to national goals of (year) in the public’s interest to lower blood pressure’.

PART V

HEALTH CLAIMS

6 regulations (67 – 72)

- 68. Function claims
- 69. Reduction of disease risk claims
- 70. 'Wholegrain' health claims
- 71. Oral health claims
- 72. Claims for energy restricted foods for weight loss
- 73. Detoxification

Function claims

Regulation 68

Table 4 (included in Part 1 and Part 2)

46 permitted

Definition not in definition section but here:

Means a claim that describes the physiological role and function of a nutrient or substance in growth, development and normal physiological functioning of the body.

May NOT make function claims for anything not in the table (column 1)

Table 4 is the go to...
Nutrients/Substances listed
Approved claim wording listed

May NOT deviate from claim wording in the table (column 2)

- Food **MUST contain** per single portion/serving:
 - at least 30% of the NRV as indicated in [Annexure 3](#)
- OR
- in the case of carotenoids, at least the amount specified in [column 3 of Part B of Table 2](#)
- OR
- the amount indicated in [column 3 of Table 4](#), whatever the case may be.

- You do not need to make all the claims listed – you can choose.
- Additional information required as specified for a specific claim must appear in the same place as the claim.

Example: Betaine monohydrate

- Claim permitted: Betaine contributes to normal homocysteine metabolism.
- Claim only permitted if: product contains at least 500mg of betaine per single portion/serving.
- Information that must be supplied in same place as the claim:
 - ‘The daily intake in excess of 4g may significantly increase blood cholesterol levels’.
 - Name at least 3 of the following foods that naturally contain betaine – shellfish / spinach / wheat germ / bran / sugar beets.

Function claims: Not permitted

- For vitamins and minerals for which an NRV is not provided in [Annexure 3](#).
- For any substance **not listed** in [Part B of table 2](#) unless provided for in [Table 4](#).

Table 2 Part B lists:

Energy / Dietary Fibre / Protein / Polyunsaturated fat / Monounsaturated fat / Omega-3 fatty acids / Vitamins and Minerals / Beta-carotene / Lycopene / Lutein / Zeaxanthin

Beta-carotene / Betaine monohydrate / Biotin / Boron / Calcium / Choline / Chromium / Co-enzyme Q10 / Copper / Dietary fibre / ALA / LA / Polyunsaturated fatty acids / Oleic acid / Low saturated fat / Folate (not folic acid) / Iodine / Iron / Lactulose / Lycopene / Lutein / Magnesium / Manganese / Molybdenum / Niacin / Olive oil polyphenols / Pantothenic acid / Phosphorus / Potassium / Prebiotic / Protein / Selenium / Vanadium / Vitamin A / Vitamin B₁ / Vitamin B₂ / Vitamin B₆ / Vitamin B₁₂ / Vitamin C / Vitamin D / Vitamin E / Vitamin K / Water / Yoghurt cultures (*Lactobacillus delbruekii subsp. bulgarius* and *Streptococcus thermophilus*) / Zeaxanthin / Zinc

46 nutrients / substances

Do not know the source of the permitted function claims

Reduction of disease risk claims

Regulation 69

Table 5

10 permitted

Definition not in definition section but here could be taken as being:

Claims that link the consumption of a foodstuff or a foodstuff constituent in the context of the total diet to the reduced risk of developing a disease or a health-related condition.

May NOT make disease reduction claims for anything not in the table (column 2)

Product MUST meet these to make the claim (Column 3)

Table 5 is the go to...

Nutrients & disease link.

Characteristics / Criteria

Approved claim wording listed

May NOT deviate from claim wording in the table (column 4).

May NOT attribute any degree of risk reduction

1. Calcium and osteoporosis.
2. Enhanced bone mineral density.
3. Sodium and hypertension.
4. High intake of fruit & vegetables and reduced risk of coronary heart disease & cancer.
5. Folic acid & neural tube defects
6. Plant sterol esters & plant stanol esters & coronary heart disease.
7. Beta-glucans in oat bran , wholegrain oats & wholegrain barley & blood pressure.
8. Walnuts & heart disease.
9. Potassium, blood pressure & stroke.
10. Soy protein & heart disease.

It is not stated where the permitted disease risk reduction claims originated

Meat-related regulations within Draft R2986

A comparison with R1283, R2410, SANS 885, VC9100 & VC8019

- Addition of definition of **Meat Safety Act**:

'Meat Safety Act' means the Meat Safety Act, 2000 (Act No. 40 of 2000) as amended

- **Processed meat** definition from R146 removed in R2986.

- Amended definition of **raw-processed meat** when compared to R146:

*'Raw-processed meat' means raw meat products from all species of meat animals and birds intended for human consumption, cured or uncured, or a combination thereof, pre-packaged or un-prepacked, that **may have** undergone freezing or partial heat treatment, and where any added ingredients or additives and added water, **including a formulated solution**, are retained in or on the product as sold, but excludes products covered by the latest version of the South African National Standard SANS 885.*

'that resembles a cut, joint, slice, portion or carcass of meat' = removed

- Amended definition of **unprocessed meat** when compared to R146:
'unprocessed meat' means uncooked, uncured meat which has not been processed or heat-treated and which does not fall under the categories 'processed meat' or 'raw-processed meat'.

Definitions in R2410, R1283 and SANS 885 in comparison:

Definition	R2986	R2410: Certain raw processed meat products	R1283: Processed meat products	SANS 885: Ready to eat processed meat products
Processed meat	N/A (removed as used to be in R146)	N/A	<p>“processed meat” means meat that has undergone any action that substantially altered its original state (including, but not limited to, heating, smoking, curing, fermenting, maturing, drying, marinating (surface application), extraction or extrusion or any combination of all these processes), but excludes raw processed meat;</p>	<p>N/A – But has a definition of “product” which is used throughout and is define as follows: “product meat intended for human consumption, which is in the course of handling, preparation, processing, packaging or storage indicated by the context of this standard, and is normally consumed without further processing”</p>

Definition	R2986	R2410: Certain raw processed meat products	R1283: Processed meat products	SANS 885: Ready to eat processed meat products
Raw-processed meat	<p>“raw-processed meat” means raw meat products from all species of meat animals and birds intended for human consumption, cured or uncured, or a combination thereof, pre-packaged or un-prepacked, that may have undergone freezing or partial heat treatment, and where any added ingredients or additives and added water, including a formulated solution, are retained in or on the product as sold, but excludes products covered by the latest version of the South African National Standard SANS 885;</p>	<p>N/A Only have definitions for each raw product, i.e. “raw boerewors”; “raw burger” etc.</p>	<p>N/A Only have raw (fresh) processed meat product – see next slide</p>	<p>N/A</p>

Definition	R2986	R2410: Certain raw processed meat products	R1283: Processed meat products	SANS 885: Ready to eat processed meat products
Raw (fresh) processed meat	N/A	N/A	<p>“raw (fresh) processed meat product” means a raw meat product obtained from any animal or bird species fit for human consumption and that resembles a cut, joint, slice, portion or carcass of meat, cured or uncured, or a combination thereof, pre-packaged or not pre-packed, that has not undergone any heat treatment and where any added ingredient and/or additive and added water, including brine, is retained in or on the product as sold and includes such products presented for sale in the frozen state;</p>	N/A

Definition	R2986	R2410: Certain raw processed meat products	R1283: Processed meat products	SANS 885: Ready to eat processed meat products
Certain raw-processed meat	N/A	“certain raw processed meat products” (further referred to as ‘raw processed meat products’ in the text) means within the scope of these regulations, the classes of raw processed meat products set out in regulation 4 , and includes such products presented for sale in the frozen state;	N/A	N/A

Definition	R2986	R2410: Certain raw processed meat products	R1283: Processed meat products	SANS 885: Ready to eat processed meat products
Unprocessed meat	“unprocessed meat” means uncooked, uncured meat which has not been processed or heat-treated and which does not fall under the categories “processed meat” or “raw-processed meat” ;	N/A	N/A	N/A

- (4) (a) **Mechanically recovered meat**, or any words such as **mechanically separated meat, mechanically deboned meat, mechanically deboned poultry** or any other similar term which means that the last small piece of meat is separated from the carcass or bones, must always be **written out in full and may not be abbreviated** when listed in the list of ingredients.
- (b) In the case where mechanically recovered meat, or **any words such as mechanically separated meat, mechanically deboned meat, or mechanically deboned poultry pulp** is obtained from the **stripped, skeletal remains under high pressure** the product must **comply with the latest versions of SANS 885 (Processed meat products) and SANS 1675 (The manufacture, production, processing and treatment of canned meat products)** in all respects and it must be specified in the list of ingredients whether it is **low or high pressure mechanically deboned meat**.

- (c) An ingoing percentage of meat contemplated in paragraph (b) **must be quantified as a quantitative Ingredient Declaration (QUID) in the list of ingredients** where ingoing percentage is more than 25 percent, and **on the main panel** when the ingoing percentage is less than 25 percent, in **bold upper-case letters of which the font size is at least 3 mm in height**.
- (d) Where the ingoing percentage of meat contemplated in paragraph (b) is **less than 25 percent**, the **name or description of the end product may not contain the word 'meat'**.

Where is Mechanically recovered meat covered in various regulations?

R1283 and **R2410** have the **same** definition for MRM which is:

'mechanically recovered meat' (MRM) means pulped material consisting predominantly of muscular tissue, collagen, marrow and fat recovered by a process whereby bone and meat are mechanically separated of which the calcium content shall not exceed 1.5%

[Please note: MRM is synonymous with mechanically separated meat (MSM), mechanically deboned meat (MDM) and mechanically boned meat (MBM)]

Not dealt with in SANS 885.

R2410: MRM permitted and not permitted in products

Permitted:

Raw minced meat; Raw mixed-species minced meat; Ground burger; Value burger; Economy burger and Raw braaiwors/sizzler.

Not Permitted:

Raw flavoured ground meat/ minced mix/ meat mix; Raw flavoured ground meat and offal/ minced and offal mix/ meat and offal mix; Raw flavoured mixed-species ground meat/ minced mix/ meat mix; Raw flavoured mixed-species ground meat and offal/ minced and offal mix/ meat and offal mix; Raw boerewors; Raw species sausage/ wors; Raw mixed-species sausage/ wors; Burger/ patty/ hamburger patty/ meatball/ frikkadel and raw banger/griller.

R1283: MRM permitted and not permitted in products

Permitted:

Comminuted processed meat products and reformed processed meat products.

Not permitted:

All classes of whole muscle processed meat products.

MRM content limits

Nowhere in either of these regulations is there **any reference to 25% total MRM content limits**... SANS 885 and VC 9100 is also silent in this respect.

HOWEVER, in VC8019 which deals with canned meat products, the following paragraph appears:

'7.7 Corned Meat

7.7.1. Preparation

Corned meat shall be adequately cured and shall be prepared as a solid pack of meat, with or without permitted edible offal. Mechanically deboned meat not exceeding 25% by mass of the total ingoing mix may be added.'

This is the only reference we can find with respect to the 25% requirement in R2986...

- (1) Subject to regulation 13, fresh, canned, frozen, raw-processed and processed fish, other marine food species, meat of birds and animals, pre-packed or offered for sale unpacked, **must clearly indicate the commonly used or known names**, either in the **direct vicinity of where the product is exhibited for sale or in the list of ingredients** on the label.
- (2) Only meat of animals and birds, referred to in Schedule 1 of the Meat Safety Act, or fish species referred to in the latest version of SANS 1647 (Approved market names for South African fish and related seafood) and other marine food species that are intended for human consumption in South Africa, must be used in foodstuffs.

HOWEVER, Regulation 8 of R2410 also states that:

“(1) The product name shall at least consist of the appropriate product name for the class concerned: Provided that in the case where meat from -

*(a) a single species only is used, the **name of the species shall form part of the product name indicated in letters of the same size;**”*

ALSO, Regulation 12 of R2410 stipulates that:

*“When sliced, cut or whole raw processed meat products are displayed for sale in for example a deli display fridge or counter, **the appropriate product name shall be indicated conspicuously in the immediate vicinity of each class of raw processed meat product concerned.**”*

INTERESTINGLY: This requirement is not in R1283.

It's complicated...

“In the case of raw-processed meat, words such as basted, basting, selfbasting, marinated or marinating, seasoned or seasoning or any other words with a similar meaning may not be used to hide the fact that additives or other ingredients were added into raw meat.”

- R2410 does not contain any provisions with respect to marinating, basting etc. as this R2410 only applies to certain raw processed meats.
- We believe that this is aimed towards the other unregulated raw processed meats as well as the products under the R946 Poultry Regulations.

- (2) Notwithstanding the requirements of subregulation (1)(b), the Agricultural Product Standards Act, and subject to regulation 21(1) and (2)(c), **raw-processed meat products, excluding biltong and dried sausage, must indicate the QUID for the meat and water content as percentages on the main panel**, in the following manner:
- (a) **Meat as the total meat in the final product; and**
 - (b) notwithstanding the requirements of SANS 458 (Tolerances permitted for the accuracy of measurements of products (including prepackaged products) in terms of legal metrology legislation) or SANS 289 Labelling requirements for prepackaged products (prepackages) and general requirements for the sale of goods subject to legal metrology control, **water, which must include any water in glaze on the product and any water that has been added inside the products in the form of a formulated solution.”**

- (4) A **QUID declaration is not a mandatory requirement** for canned fish and marine products, frozen fish and sea-food products, agricultural fishery products and agricultural products for which compositional standards or regulations already exist under the Compulsory Specifications Act, the Agricultural Product Standards Act, and the Liquor Products Act, **except for:**
- (a) processed meat products as per SANS 885 classification;
 - (b) **raw-processed meat products, excluding biltong and dry sausage;**
 - (c) blended fruit juices, fruit nectars, and fruit drinks, but not blended fresh fruit juices;
 - (d) dairy products with added ingredients;
 - (e) edible ices; and
 - (f) canned meat, fish and seafood products.”
- (6) For the purposes of this regulation,
- (b) **“formulated solution”** in relation to raw-processed meat, has the **meaning assigned to it in the relevant regulations under the Agricultural Product Standards Act;**

QUID in R2410?

QUID is only referred to in Regulation 9 of R2410 where it stipulates that:

*“(2) If a **foodstuff has been added to a raw processed meat product** in order to render a distinctive taste thereto, the appropriate product name shall be followed or preceded by the expression “with X” or wording having a similar meaning, where “X” indicates the generic name(s) of the foodstuff(s) added (e.g. “Mutton sausage with chilli” or “Chilli Mutton sausage”, etc.): **Provided that the requirements on Quantitative Ingredient Declarations (QUID), as specified in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), shall be complied with.**”*

**QUID declarations of the total meat content and water content
are not discussed in R2410...**

- “(2) **Water that is added as an ingredient** or through processing of a foodstuff, **must be declared in the list of ingredients** of such a foodstuff, **unless**—
- (a) it is used in the manufacturing of the foodstuff solely for the purpose of wetting a dry additive or ingredient, **excluding raw-processed meats**; or
 - (b) it is part of brine or syrup and declared as ‘brine’ or ‘syrup’ in the list of ingredients, **excluding raw-processed meats**; and
 - (c) the water, which is added, does not exceed 5% of the finished product, **excluding raw-processed meats**.
- (3) In the case of **raw-processed meat, subject to regulation 25(2), water added as an ingredient in a sauce or marinade on meat, need not be declared.**”

- (1) The pictorial representation on the label or any advertisement of a prepackaged foodstuff **may not be presented in a manner that is false, misleading, deceptive or is likely to create an erroneous impression** regarding the contents of the container or its character, origin, **living conditions in the case of animal-derived products**, its composition, quality, nutritive value, nature or other properties in any respect: **Provided that a foodstuff garnish, foodstuff or ingredient not present in the container, if used in the pictorial representation, may not dominate the pictorial representation.**

- (2) Pre-packaged foodstuffs may not be described or presented on any label or in any labelling by words, pictorial or other devices which refer to or are suggestive, either directly or indirectly, of any other product with which such foodstuff might be confused, or in such a manner as to lead the purchaser or consumer to assume that the foodstuff is connected to such other product.

“Subject to regulations 50, 51 and 58(1) to (9), and in line with the most recent Codex Alimentarius General Principles for the Addition of Essential Nutrients to Foods CAC/GL 9-1987—

(c) enrichment **with any nutrient or common allergen** is not permitted for raw-processed meat and raw-processed poultry;”

IMPORTANT to note common allergens as per R2986 are:

“egg, cow’s milk, crustaceans, molluscs, fish, peanuts, **soybeans**, tree nuts and any significant cereals as well as ingredients derived from these foodstuffs and which have retained their allergenicity in the final end product and includes sulphites;”

Example: Soy injection instead of brine.

“(3) The following foodstuffs are, **unless otherwise stipulated in these regulations or any regulations published under the Agricultural Product Standards Act, and the Compulsory Specifications Act, exempted from the requirements regarding labelling, but when an energy, health, ingredient content or nutrition claim is made,** the exemption falls away and these regulations apply:

- (f) **unprocessed meat** of animals and birds, referred to in Schedule 1 of the Meat Safety Act, or fish species referred to in the latest version of SANS 1647, that is intended for human consumption in South Africa and that have not been pre-packed, **except for an indication of the type of animal** and bird, fish, or other marine food species at the point of sale that—
 - (i) **must appear on a notice placed in close vicinity of where the foodstuff is offered for sale;** and
 - (ii) is easily legible and in clear view of the consumer, where such foodstuffs are exhibited for sale in bulk;

- (g) **unprocessed fish, marine products, meat of animals and birds referred to in Schedule 1 of the Meat Safety Act**, or fish species referred to in the latest version of SANS 1647, that is intended for human consumption in South Africa and that is pre-packaged in such a way that the purchaser is able to identify the contents of the package, **except for an indication of the type of animal, bird, fish or marine product, the date on which the product was packaged, the price per kilogram, as well as the price per container, printed on the scale label;**”

Annexure 9:

**ILLUSTRATIVE LIST OF FOODS THAT NEED ONLY A
“DATE OF MANUFACTURE” OR A “DATE OF PACKAGING”
AS APPROPRIATE; PROVIDED THAT FOOD SAFETY
IS NOT COMPROMISED IN ANY WAY**

*“Unprocessed, unpacked fish, unprocessed, unpacked meat and unprocessed, unpacked poultry which have not been pre-packed”
is listed in this Annexure.*

ANNEXURES

10 Annexures (1-10)

1. Categories of food additives that may be identified by their principal functional category name and where applicable the subcategory name in a list of ingredients.
2. Mandatory nutritional information declaration.
3. NRVs for the purposes of these regulations.
4. Evaluation of protein quality for the purposes of when a protein claim is made.
5. Letter sizes: Definition of x-height.
6. The major dietary carbohydrates.
7. Culinary herbs and spices ordinarily used in food preparation.
8. South African Nutrient Profiling Model: Screening criteria for the purpose of whether a food is eligible to make a health or nutrition claim.
9. Illustrative list of foods that need only a 'date of manufacture' or a 'Date of packaging' as appropriate: provided that food safety is not compromised in any way.
10. FOPL.

PART VI

EXEMPTIONS | REPEAL | COMMENCEMENT

3 regulations (74-76)

74. Exemptions

75. Repeal

76. Commencement

- Exemptions to ingredient listing unchanged relative to R146.
- Full exemptions from ingredient statements unchanged relative to R146.
- Some minor changes to list of products fully exempted from labelling:
- Unprocessed meat – still referred to Meat Safety Act.
- Non-prepacked unprocessed fish – refers to SANS 1647.
- However, species of non-prepacked unprocessed meat / fish must be identified at point-of-sale.

- Prepacked unprocessed meat / fish to be labelled with species, date of packaging, price per kg & price per pack.
- Requirements for ready to consume foods from catering establishments (including 'naked' bread) unchanged, can be printed on scale label or made available on request.
- Non-pre-packaged or transparently packaged servings of foods only require list of ingredients, allergens and date of manufacture printed on scale label.
- Ice and sports water sachets fully exempted.
- Street vendor foods fully exempted.

- Subject to sub-regulations (2), (3) and (4), these regulations enter in to force **24 months after the date of publication.**
- Prohibition on nutrient claim / health claims in product names and branding enter into force **on the date of publication.**
- Regulations 49 to 73 enters into force **12 months after the date of publication.**
- Regulation 8 on **date marking** enters into force **6 months** after the date of publication of these Regulations.

Commencement: Realistic timeline?

- **Immediate:** Brands may be in place for some years, packaging redesign, use up existing packaging, loss of goodwill.
- **Date Marking:** 6 months is not long enough as some product have shelf life of 2 years or longer.
- **12 months:** Many SKU's not enough resources/ laboratory capacity.

Open to legal challenge unless these timelines are adjusted.

Technical Barriers to Trade (TBT) of the World Trade Organization (WTO)

Technical regulations, product standards and “conformity assessment procedures” (testing and certification procedures) do not create unnecessary obstacles to trade.

All laws and regulations of this nature must be notified to the WTO for comment by member countries.

Notification to the World Trade Organization (WTO) regarding the draft regulations after finalised.

60 days for comments from notification.

Socio-economic impact assessment system (SEIAS)

Aims:

To **minimise unintended consequences...** regulations and legislation, including **unnecessary costs from implementation and compliance...**

SEIAS must help ensure that government policies do more to support the core national priorities. It therefore requires that new rules be measured in terms of their impact on:

1. Social cohesion and **security** (safety, **food**, financial, energy and etc.)
2. Economic inclusion
3. **Economic growth**
4. Environmental sustainability.

Enforcement

- **NOT** Food Control of Department of Health.
- Shared between several authorities.
- Different levels: national, provincial and local.
- Common difficulties:
 - Lack of staff.
 - Lack of training / understanding of complex scientific and legal issues.

Enforcement

Department of Health (DoH) principle: Enforcement at local level

Department of Health	Provincial Department of Health:
Coordinating activities such as food product recalls.	- Food control at provincial level. - Specialised services (e.g Port Health for import control).
Districts/Local authorities (Municipalities):	
- Food control in their areas of jurisdiction. - Hygiene control.	

Enforcement: Department of Health - Approval of labels

- Department of Health does NOT check or approve labels.
- **Port Health checks incoming products for compliance with labelling and other regs – can impound/ refuse entry.**
- Department of Health does not enforce the labelling regulations once in the country.
- No provision in either FCD Act or R2986 for the pre-approval of **labels** by Department of Health.
- SAHPRA approves medicine labels and inserts, and this applies to CAMS as well.
- NO DISPENSATION is possible by Department of Health – not provided for in FCD Act (unlike APS Act).

Enforcement: Penalties under FCD Act

- 1. First offence:** Fine \leq R50K OR \leq 6 months imprisonment OR both.
 - 2. Second offence:** Fine \leq R100K OR \leq 12 months imprisonment OR both.
 - 3. Third offence:** Fine \leq R200K OR \leq 24 months imprisonment OR both.
- **Forfeiture of products.**
 - Amount of fines updated regularly.

Thank you

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