



# agriculture, forestry & fisheries

Department:  
Agriculture, Forestry and Fisheries  
REPUBLIC OF SOUTH AFRICA

Directorate Food Safety and Quality Assurance, Private Bag X343, PRETORIA, 0001

## FAX COVER SHEET

<b>TO:</b>	<b>A. ALL MANUFACTURERS, PACKERS, IMPORTERS AND RETAILERS OF EDIBLE ICES</b>		
	<b>B. DIRECTORATE INSPECTION SERVICES</b>		
<b>FROM:</b>	Theo van Rensburg	<b>E-MAIL:</b>	<a href="mailto:theoivr@daff.gov.za">theoivr@daff.gov.za</a>
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<b>NO. PAGES:</b>	2 + 4	<b>DATE:</b>	15 September 2015

Subject

## AMENDMENT TO INDUSTRY DISPENSATION: EDIBLE ICES REGULATIONS

### Background

A dispensation was issued on 26 June 2013 (copy attached) to allow the Edible Ices industry to deviate from certain provisions in regulation R.78 dated 8 February 2013 (Edible Ices), of which one includes the indication of variant names in a letter size larger than the class designation.

The intention to exempt variant names from the restriction in regulation 6(1)(a)(iii) of R.78 was to accommodate the use of such variant names since they have been part of the normal trade practice prior to the publication of the new Edible Ices regulations. In order to avoid defeating the purpose of the regulations, the use of variant names which include a reference to a particular foodstuff was limited to instances where the actual foodstuff was contained in the edible ice product concerned. This provision was however further subject to the requirement that the named foodstuff be QUID'ed in the ingredients list. This was to ensure that the indication of the variant name will not in any way mislead or confuse the consumer about the actual composition of the product concerned.

The Department has however become aware of the differences in interpretation by the industry with regard to the indication of the variant name as set out in the dispensation of 26 June 2015. In consultation with the industry the following amendment to regulation 6(1)(a)(iii) in the afore-mentioned dispensation was agreed upon:

### Amendment to dispensation

The dispensation issued on **26 June 2013** is hereby amended by substituting paragraph **(b)** with the following:

#### **“(b) Regulation 6(1)(a) – Class designation**

Shall read as follows:

- (a) The applicable class designation or alternative class designation as specified in columns 2 and 3 of Table 2 and Table 3: Provided that --
- (i) in the case of --
    - (aa) the classes Frozen Fruit Sorbet and Frozen Fruit Ice, the word “Fruit” may be substituted by the name(s) of the specific fruit(s) used;
    - (bb) the class Flavoured Ice, the word “Flavoured” shall be preceded by the name(s) of the specific fruit(s) and/or flavouring(s) used;

- (cc) instant mix products which are intended to be prepared at home by adding e.g. full cream milk, full cream yoghurt, butter milk, etc., the classification of the product concerned shall be based on --
- (aaa) the *fat content* of the final product when prepared in accordance with the mixing instructions provided on the packaging [i.e. the combined fat content of the dry/powdered milk and/or vegetable oil (e.g. palm kernel, coconut kernel, etc.) ingredients in the instant mix and the full cream milk, full cream yoghurt, butter milk, etc. it is intended to be mixed with.]; and
- (bbb) the *total solids content* and *milk solids non-fat content* (where applicable) of the final product when prepared in accordance with the mixing instructions provided on the packaging: Provided that --
- inclusions shall not be taken into account when determining the fat content and the total solids; and
  - the manufacturer, packer or importer shall, on request of the inspector, provide the Department with the necessary information/composition (e.g. analysis report, etc.) of the instant mix when prepared in accordance with the mixing instructions;
- (ii) an altered word sequence of the class designation or alternative class designation is permissible on condition that the altered word sequence does not constitute a misrepresentation, or not directly or by implication create or may create a misleading impression regarding the quality, nature, origin or composition of the product concerned; and
- (iii) no word or expression may be bigger than the class designation or alternative class designation unless it is a registered trade mark, brand name or product variant name (e.g. 'Neapolitan'; 'Classic'; 'Orange Maid'; 'Almond'; etc.): Provided that the use of variant names which include any reference to a foodstuff, either directly or by implication, and which have been in use --
- (aa) or allowed for on Edible Ices prior to the publication of regulation R.78 on 8 February 2013 are permissible, even though the reference to such foodstuff may in some instances consist of a flavouring only: Provided further that the manufacturer, owner, importer or retailer shall upon request provide the Executive Officer or inspector with the necessary evidence of such prior use within the Republic of South Africa; or
- (bb) on Edible Ices from 8 February 2013 only shall be -
- (aaa) subject to the requirements on Quantitative Ingredient Declarations (QUID), as specified in the regulations published under the Foodstuffs, Cosmetics and Disinfects Act, 1972 (Act No. 54 of 1972), if the actual foodstuff is present in the Edible Ices product concerned; and
- (bbb) subject to the requirements in paragraph (c) of the dispensation issued on 26 June 2013 if cocoa powder or vanilla has been added; or
- (bbb) followed by the word 'flavoured' in letters of the same size and font (type) if the reference to such foodstuff consists of a flavouring only."

This amendment is subject to the same conditions as set out in the dispensation issued on 26 June 2013.

  
EXECUTIVE OFFICER:

AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT 119 OF 1990)



agriculture,  
forestry & fisheries

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Agriculture, Forestry and Fisheries  
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**FAX COVER SHEET**

**TO:** A. ALL MANUFACTURERS, PACKERS, IMPORTERS AND RETAILERS OF EDIBLE ICES  
B. DIRECTORATE INSPECTION SERVICES

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**TEL:** +27 (0) 12 319 6020 **REF NO:** 20.4.11.1.2/Ice-Cream  
**FAX:** +27 (0) 12 319 6055  
**NO. PAGES:** 4 **DATE:** 26 June 2013

Subject

**DISPENSATION: EDIBLE ICES REGULATIONS**

The new regulations regarding the classification, packing and marking of Edible Ices intended for sale in South Africa were promulgated on 8 February 2013 in the Government Gazette (Government Notice No. R.78) with an implementation period of 12 months.

During the process of aligning current packaging material with the new labelling requirements, certain shortcomings and grey areas were identified by the manufacturers/packers of these products. The implementation period of 12 months was also found to be inadequate due to the following reasons:

- (i) Standard lead-times associated with packaging design, approval and printing are on average 28 weeks.
- (ii) Edible Ices have a shelf life of 24 months – Incorrectly labelled products will thus still be circulating in the trade long after 8 February 2014.
- (iii) There is a high cost associated with the artwork changes on the packaging which can in the majority of cases only be budgeted for in the next financial year.

To (i) extend the implementation period, (ii) streamline the marking requirements, (iii) prevent any misinterpretation of the regulations as well as any unnecessary 'clutter' of packaging material as far as possible, (iv) address the use of real cocoa and vanilla ingredients, and (v) make provision for instant mix Edible Ice products, the Department has decided to issue the following dispensation:

Permission is hereby granted by the Executive Officer: Agricultural Product Standards in terms of section 3(1)(c) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), to all manufacturers, packers, importers and retailers of Edible Ices to apply the following changes to regulation R.78 of 8 February 2013:

**(a) Implementation period**

The implementation period is hereby extended from 12 to 24 months after the date of publication, i.e. 8 February 2015.

**(b) Regulation 6(1)(a) – Class designation**

Shall read as follows:

"(a) The applicable class designation or alternative class designation as specified in columns 2 and 3 of Table 2 and Table 3: Provided that --

(i) in the case of --

(aa) the classes Frozen Fruit Sorbet and Frozen Fruit Ice, the word "Fruit" may be substituted by the name(s) of the specific fruit(s) used;

- (bb) the class Flavoured Ice, the word "Flavoured" shall be preceded by the name(s) of the specific fruit(s) and/or flavouring(s) used;
- (cc) instant mix products which are intended to be prepared at home by adding e.g. full cream milk, full cream yoghurt, butter milk, etc., the classification of the product concerned shall be based on --
- (aaa) the *fat content* of the final product when prepared in accordance with the mixing instructions provided on the packaging [i.e. the combined fat content of the dry/powdered milk and/or vegetable oil (e.g. palm kernel, coconut kernel, etc.) ingredients in the instant mix and the full cream milk, full cream yoghurt, butter milk, etc. it is intended to be mixed with.]; and
- (bbb) the *total solids content* and *milk solids non-fat content (where applicable)* of the final product when prepared in accordance with the mixing instructions provided on the packaging: Provided that --
- inclusions shall not be taken into account when determining the fat content and the total solids; and
  - the manufacturer, packer or importer shall, on request of the inspector, provide the Department with the necessary information/composition (e.g. analysis report, etc.) of the instant mix when prepared in accordance with the mixing instructions;
- (ii) an altered word sequence of the class designation or alternative class designation is permissible on condition that the altered word sequence does not constitute a misrepresentation, or not directly or by implication create or may create a misleading impression regarding the quality, nature, origin or composition of the product concerned; and
- (iii) no word or expression may be bigger than the class designation or alternative class designation unless it is a registered trade mark, brand name or product variant name (e.g. 'Neapolitan'; 'Classic'; 'Orange Maid'; 'Almond'; etc.): Provided that the naming of an ingredient in the variant name shall only be allowed if the requirements on Quantitative Ingredient Declarations (QUID), as specified in the regulations published under the Foodstuffs, Cosmetics and Disinfects Act, 1972 (Act No. 54 of 1972), have been complied with."

**(c) Regulation 6(1)(b) – Additions to the class designation**

The following subparagraph is hereby inserted after subparagraph 6(1)(b)(iii):

- "(iv) (aa) If at least 2% (m/m) cocoa powder has been added to an Edible Ice product as a foodstuff in order to render a distinctive chocolate flavour and taste thereto, the applicable class designation or alternative class designation may either be preceded by the word "chocolate", or be followed by the wording "with chocolate flavouring": Provided that the requirements on Quantitative Ingredient Declarations (QUID), as specified in the regulations published under the Foodstuffs, Cosmetics and Disinfects Act, 1972 (Act No. 54 of 1972), have been complied with."
- (bb) If vanilla in the form of vanilla bean, vanilla pod, vanilla seed or pure vanilla extract has been added to an Edible Ice product in order to render a distinctive vanilla flavour thereto, the applicable class designation or alternative class designation may either be preceded by the word "vanilla", or be followed by the wording "with vanilla flavouring".

**(d) Regulation 6(1)(c) – The expression “pasteurised”**

Shall read as follows:

“(c) The expression “Pasteurised” in the case where –

- (i) Frozen Yoghurt has been pasteurised after fermentation; and
- (i) blends of yoghurt and either dairy ice-cream mix or ice-cream mix has been pasteurised:

Provided that this expression may be omitted if so preferred.”

**(e) Regulation 6(3) – Individual units packed in multipacks**

Shall read as follows:

“(3) In the case where individual units are packed in a multipack, the expression “NOT FOR INDIVIDUAL SALE”, or any other wording having a similar meaning, shall at least be indicated on the containers containing the individual units: Provided that such individual units may not be sold loose.”

**(f) Regulation 6(4) – Multipacks**

Shall read as follows:

“(4) In the case of a multipack, at least the following marking requirements shall be indicated on the multipack:

- (a) The particulars prescribed in subregulations (1), (2) and (8); and
- (b) The number of containers (individual units) contained therein as required in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973).”

**(g) Regulation 6(9) – Letter types and sizes**

Shall read as follows:

“(9) The particulars referred to in subregulations (1) to (8) shall be indicated in detached letters and figures --

- (a) that are clearly legible;
- (b) that are of the same type;
- (c) that appear on a contrasting background; and
- (d) of which the minimum vertical height of the smallest letter or figure in the indication is as follows:

Particular	Subregulation	Minimum size
• Class designation	(1)(a)	3mm: Provided that it may be reduced to 2mm in the case of units with a volume of 200mL or a weight of 200g and less
• Additions to the class designation • The expression “pasteurised” • The expression “contains no live cultures”, etc.	(1)(b) (1)(c) (1)(d)	2mm: Provided that, subject to the provisions of regulation 6(1)(a)(iii), the difference in letter size between the smallest letter in the class designation indication and smallest

		letter in the additions to the class designation indication shall not exceed 3mm
<ul style="list-style-type: none"> <li>• Name and address</li> <li>• Country of origin</li> <li>• Ingredients list</li> </ul>	<ul style="list-style-type: none"> <li>(2)(a)</li> <li>(2)(b)</li> <li>(8)</li> </ul>	1mm
<ul style="list-style-type: none"> <li>• The expression "NOT FOR INDIVIDUAL SALE"</li> </ul>	(3)	2mm
<ul style="list-style-type: none"> <li>• Designation "Soft Serve" on soft serve dispensing machines</li> </ul>	(6)	50mm
<ul style="list-style-type: none"> <li>• Applicable class name on display freezer unit or immediate container in which product is displayed – All single serve portions, excluding Soft Serve</li> </ul>	(7)	50mm

This permission is subject to the following conditions:

- (a) All other conditions of the Edible Ices regulations (R.78 of 8 February 2013) shall be complied with.
- (b) It may be withdrawn at any time should a valid complaint be received.
- (c) All manufacturers, packers, importers and retailers of Edible Ices indemnify this Directorate and the Department from any detrimental effect, financially or otherwise, which may emanate as a result of this permission.
- (d) Termination date: When an amendment to the Edible Ices regulations is published in the Government Gazette.



**EXECUTIVE OFFICER:**  
**AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT 119 OF 1990)**