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# GOVERNMENT NOTICES

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## DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

No. R. 194

9 March 2012

AGRICULTURAL PRODUCT STANDARDS ACT, 1990 (ACT No. 119 OF 1990)

### REGULATIONS RELATING TO THE CLASSIFICATION, PACKING AND MARKING OF FAT SPREADS INTENDED FOR SALE IN THE REPUBLIC OF SOUTH AFRICA

The Minister of Agriculture, Forestry and Fisheries has in terms of section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) –

- (a) made the regulations in the Schedule;
- (b) read together with section 3(2) of the said Act, repealed the regulations published by Proclamation No. R. 561 of 16 March 1990 and Government Notice No. R. 560 of 16 March 1990 as amended by Government Notices No. R.627 of 28 March 1991, No. R.1193 of 19 July 1996 and No. R. 1095 of 17 September 1999; and
- (c) determined that the said regulations shall come into operation 12 months after date of publication thereof.

#### SCHEDULE

##### *Definitions*

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have that meaning and –

"**address**" means a physical address in the Republic of South Africa and includes the street or road number or name and the name of the town, village or suburb and, in the case of a farm, the name or number of the farm and of the magisterial district in which it is situated;

"**animal fat**" means any fat of animal origin, excluding milk fat and marine fat;

"**container**" means the immediate container or wrapper in which a fat spread is packed;

"**fat free dry matter**" means the remainder of a fat spread after the moisture and the fat has been removed;

"**flavour**" means a complex sensation derived from the blending of smell and taste;

"**food additive**" means an additive as defined in the regulations made under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended;

"**foodstuff**" means a foodstuff as defined by the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended;

"**lot (batch)**" means a definite quantity of a commodity produced essentially under the same conditions, and not exceeding 24 hours;

"**main panel**" means that portion of a container in which a fat spread is packed, and on which the largest depiction of the brand name or trade name used in connection with the sale of that fat spread is indicated, and also any other portion of such container on which the depiction of the brand name or trade name concerned is of prominence;

"**marine fat**" means fat obtained from marine animals;

"**milk fat**" means fat obtained from the milk of bovines, sheep or goats;

"**outer container**" means a container in which more than one container of a fat spread is packed, together with similar packages;

"**small serving container**" means a container in which individual serving portions of not more than 8g of a fat spread is packed and which is packed in an outer container;

"**the Act**" means the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) as amended;

"trade mark" means a trade mark as defined by the Trade Marks Act, 1993 (Act No. 194 of 1993) as amended; and

"vegetable fat" means fat or oil that is obtained from vegetable matter.

#### **Scope of regulations**

2. (1) These regulations shall apply to the classification, packing and marking of fat spreads intended for sale in the Republic of South Africa to which and under circumstances in which a prohibition in terms of section 3 of the Act regarding the sale of fat spreads apply.

(2) These regulations shall not apply to a fat spread in a package of more than 2 kg if that fat spread is intended for processing or for use in the manufacture of another product.

#### **Requirements for sale**

3. (1) No person shall, subject to the provisions of subregulation (2), sell fat spreads in the Republic of South Africa unless --

- (a) the fat spreads comply with the standards referred to in regulation 5;
- (b) the containers in which fat spreads are packed comply with the requirements for containers referred to in regulation 6;
- (c) the containers and outer containers concerned are marked in the manner prescribed in regulation 7;
- (d) the containers concerned comply with the marking restrictions referred to in regulation 14;
- (e) the containers concerned comply with the identification requirements referred to in regulation 15;
- (f) the containers concerned comply with the particulars referred to in regulation 16;
- (g) the fat spreads are free from impurities and adulterants; and
- (h) subject to the provisions of paragraphs (a), (b), (c), (d), (e), (f) and (g), the fat spreads comply with the appropriate standards as set out in Table 1.

(2) The Executive Officer may grant written exemption, entirely or partially, to any person on such conditions as he or she deems necessary, from the provisions of subregulation (1).

#### **Offences and penalties**

4. Any person who contravenes or fails to comply with the provisions of these regulations shall be guilty of an offence and upon conviction be liable to a fine or imprisonment in accordance with section 11 of the Act.

#### **Standards for fat spreads**

5. (1) A fat spread must comply with the following standards:
- (a) It shall have a clean and pleasant flavour.
  - (b) It shall be reasonable soft on the palate.
  - (c) It shall be easily spreadable at 20°C.
  - (d) It shall comply with the applicable standards specified in columns 3, 4, 5, 6, 7, 8, 9 and 10 of Table 1 opposite the class concerned.

- (e) The slip point of the separated fat phase thereof shall be below 38°C.
- (f) It shall be fluid emulsions, principally of water and edible fats and oils, with the exception of vanaspati.

(2) The classes of fat spreads known as vanaspati and mixed vanaspati shall have the flavour that is characteristic of vanaspati.

(3) The classes of fat spreads known as yellow margarine, yellow X% fat spread, yellow margarine blend and yellow X% blended fat spread may only contain marine fat in the case where a nutritional claim is to be made in respect of Omega-3 fatty acids in terms of the requirements of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended.

(4) The classes of fat spreads known as yellow margarine blend and yellow X% blended fat spread must contain milk fat but only to the extent that it comprises at least 10% of the total fat content but less than half of the total fat content of the fat spread concerned.

(5) A fat spread may contain other foodstuffs and food additives to the extent permissible under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended.

#### **Requirements for containers**

6. (1) The container of a fat spread shall –
- (a) be made from a material that –
    - (i) is suitable for this purpose;
    - (ii) will protect the contents thereof from contamination; and
    - (iii) will not impart any undesirable flavour to the contents thereof;
  - (b) be so strong that it will not tear or break during normal storage, handling and transport practices;
  - (c) be unbroken;
  - (d) in the case of a container that is re-used, be thoroughly cleaned and sterilized before the fat spread is packed therein; and
  - (e) be closed properly in a manner permitted by the nature thereof.
- (2) No container shall contain more than one class of fat spread: Provided that outer containers (multipacks) with more than one class of fat spread packed therein, in separate containers or in small serving containers, are allowed.

#### **Marking of containers and outer containers**

7. (1) The main panel of a container and outer container of a fat spread shall be marked with the following particulars in at least English:
- (a) The applicable class designation of that fat spread as required in regulation 8: Provided that in the case of outer containers (multipacks) where more than one class of fat spread is packed in the outer container, the applicable class designations as required in regulation 8 and, subject to regulation 7(2)(d), the amount of containers therein.
  - (b) The applicable additions to such class designation as required in regulation 9.

- (c) If applicable, the additional particulars as required in regulation 10: Provided that such particulars need not be marked on an outer container.

(2) Subject to the provisions of subregulation (3), a container and outer container of a fat spread shall, either on the main panel or on any other conspicuous place thereon, be marked with the following particulars in at least English:

- (a) The name and address of the manufacturer, importer or seller of that fat spread as required in regulation 11.
- (b) The country of origin of that fat spread as required in regulation 12.
- (c) If applicable, the particulars as required in regulation 13.
- (d) The net mass of the contents as required in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973) as amended.

(3) The particulars referred to in paragraphs (a), (b) and (c) of subregulation (2) need not be marked on small serving containers which are packed in outer containers that are marked with all the applicable particulars referred to in subregulations (1) and (2).

(4) Subject to the provisions of subregulation (5), the particulars referred to in subregulations (1) and (2) and specified in column 1 of Table 2 shall be indicated in detached letters and figures—

- (a) that are clearly legible; and
- (b) of which the minimum vertical height, depending on the mass of fat spread in a container, is as specified in column 2, 3 or 4 of Table 2 opposite the particulars concerned: Provided that the minimum vertical height shall be applicable to the smallest letter or figure in the indications.

(5) If any word or expression that is not a trade mark, or is not required in terms of these regulations or another law, appears on a container, the vertical height of the letters and figures used to indicate the class designation of the fat spread concerned shall, subject to the provisions of subregulation (4)(b), be at least the same as that of the largest letter or figure in the word or expression concerned.

#### ***Indication of class designation***

8. (1) The class designation of a fat spread that is marked on the main panel of a container shall be the applicable class designation or alternate class designation respectively specified in column 1 or 2 of Table 1.

- (2) (a) The total fat content, expressed as a percentage of the particular fat spread concerned must be indicated in the place of X where X forms part of the class designations specified in columns 1 and 2 of Table 1.
- (b) Such an indicated percentage shall not differ by more than three percent from the actual fat content of the fat spread concerned.

(3) A class designation may be marked in altered word sequence on the main panel of a container on condition that the altered word sequence does not constitute a misrepresentation or does not or may not directly or by implication create a misleading impression regarding the quality, nature, origin or composition of the fat spread concerned.

#### ***Additions to class designations***

9. If a flavouring has been added to a fat spread in order to render a distinctive non-typical flavour thereto, the applicable class designation for that fat spread shall be preceded by the descriptive name for the distinctive flavour concerned and the expression "Flavoured", or be followed by that descriptive name and the expression "Flavoured": Provided that typical flavour shall include butter and olive oil.

**Additional particulars on main panel**

10. Subject to the provisions of regulation 5(3) the classes of fat spreads known as yellow margarine, yellow X% fat spread, yellow margarine blend and yellow X% blended fat spread that contain marine fat shall indicate a nutritional claim in respect of Omega-3 fatty acids in terms of the requirements of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended.

**Indication of address**

11. The name and address of the manufacturer, importer or seller shall be marked on the container of a fat spread.

**Indication of country of origin**

12. The country of origin of a fat spread shall be declared on the container as follows:

(1) "Product of (name of country)" if all the main ingredients, processing and labour used are from one specific country;

(2) "Produced in (name of country)", "Processed in (name of country)", "Manufactured in (name of country)", "Made in (name of country)", or similar words when processed in a second country which changes its nature;

(3) provided that in the case where more than one country may be the source the words "Product of (names of countries) separated by the expression 'and/or'" may be used; and

(4) provided further that the words "Packed in (name of country)" may be used in addition to the requirements of paragraph (1) or (2) above.

**Additional particulars on containers**

13. (1) The container of a fat spread of the classes known as yellow margarine, white margarine, yellow X% fat spread, white X% fat spread, yellow margarine blend, and yellow X% blended fat spread shall be marked with the intended usage of the fat spread, such as reference to "frying" or "baking", based on the performance of the fat spread concerned.

(2) (a) A container of a fat spread of the classes known as yellow X% fat spread, white X% fat spread and yellow X% blended fat spread shall indicate the moisture content, expressed as a percentage to which moisture constitutes part of that fat spread.

(b) Such indicated percentage shall not differ by more than two per cent from the actual moisture content of the fat spread concerned.

(3) If any foodstuff not specifically provided for in these regulations, or a food additive, has been added to a fat spread, the particulars thereof shall, in the manner required in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended, be marked on a container of that fat spread.

(4) (a) If a fat or oil of a kind specified in columns 3, 4, 5 and 6 of Table 1, forms part of the content of a fat spread, this fact shall be marked on a container of a fat spread in the manner required in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended.

(b) In the case of a fat spread of the classes known as vanaspati and mixed vanaspati, the indication of the kind of fat or oil concerned shall be followed by an indication of the extent, expressed as a percentage, to which each such kind of fat or oil forms part of the content of the fat spread concerned.

- (c) Such indicated percentage shall not differ by more than five per cent from the actual fat or oil content of the fat spread concerned.

(5) The container of a fat spread shall be marked with the real analytical values of the following fatty acid components in a table with nutritional information as required in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended, namely: total, saturated, monounsaturated, polyunsaturated and trans.

***Restricted particulars on containers***

14. (1) No class designation other than the applicable class designation shall be marked on a container of a fat spread except in the circumstances set out in regulation 8.

- (2) (a) Subject to the provisions of paragraph (b) and regulation 16 no word, mark, illustration, depiction or other method of expression that constitutes a misrepresentation, or directly or by implication creates or may create a misleading impression regarding the quality, nature, class, origin or composition of a fat spread shall be marked on a container.

- (b) The words "extra", "super", "fresh", "natural" or any other word or expression that directly or by implication creates or may create the impression that a fat spread is of a special or particular quality shall not be marked on a container, except for the circumstances and conditions as indicated in subregulation (4) and regulation 16.

(3) No claim regarding the absence of any substance that does not normally occur in a fat spread shall be marked on a container, except in the cases where it is allowed in terms of the requirements of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended.

- (4) No claim which compares a fat spread, based on the fat or energy content by using one of the following words or a similar word such as "reduced", "less than", "fewer", "light", "lite", shall be made on the container or in an advertisement of a fat spread, unless the following conditions are complied with--

- (a) the fat spread must be compared with the applicable margarine class (i.e. yellow margarine, white margarine and yellow margarine blend) and have similar organoleptic properties;
- (b) the class designation used together with the comparison shall be the required designation as prescribed by regulation 8;
- (c) a statement must be given of the amount of difference in the energy value or fat content, expressed as a percentage;
- (d) the comparison shall be based on a relative difference of at least 25% in the energy value or fat content of an equivalent mass or volume;
- (e) the container of the fat spread is labelled with the prescribed nutritional information declaration in terms of the requirements of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended, including the requirements of regulation 13(5); and
- (f) the words "extra" or "xtra" may only be used as part of a comparison only when such a comparison is based on a relative difference of at least 50% in the energy value or fat content of an equivalent mass or volume.

(5) No comparison with or reference to the respective merits or demerits of dairy products against fat spreads shall be marked on a container.

- (6) (a) An indication that a fat spread contains a dairy product shall be marked on a container only as part of a product description and the list of ingredients as required in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended.
- (b) An indication referred to in paragraph (a) shall consist of the applicable class designation for the dairy product concerned as prescribed in the applicable regulations made under section 15 of the Act.

(7) The provisions of this regulation shall *mutatis mutandis* apply to all advertisements for fat spreads as well as particulars that are marked on a notice board displayed at or in the vicinity of a fat spread that is kept or displayed for sale.

#### **Identification of production lot (batch)**

15. (1) A container of a fat spread shall be identifiable and traceable to such an extent that the factory where the final product was produced can be identified as well as details regarding the specific production lot (batch).

(2) Such identification shall be the same for all containers of a fat spread originating from the same production lot (batch).

#### **Other particulars**

16. Particulars and characteristics of a fat spread not covered by the marking requirements of these regulations must, where applicable, comply with the marking requirements as required in terms of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) as amended as administered by the Department of Health, and include but are not limited to the following: nutritional information, date marking, prohibited statements, negative claims, list of ingredients, Quantitative Ingredient Declarations, required markings for fats and oils, refrigeration, allergens, misleading descriptions, nutrient content claims (including reference to polyunsaturated and monounsaturated fatty acids), comparative claims (excluding total fat/energy), irradiation and vegetarian claims.

#### **Inspection and sampling**

17. (1) An inspector may in any lot of fat spreads open as many containers and inspect the contents thereof and remove samples of such contents for the purpose of further inspection or analysis, as he or she may deem necessary, for which he or she must issue a receipt.

(2) An inspector shall satisfy himself or herself that the samples so extracted are representative of the product in the lot concerned.

(3) The method to be employed and the procedure to be followed when a sample of fat spread is to be taken shall be based on international acceptable reference methods and procedures.

#### **Methods of analysis**

18. The method to be employed and the procedure to be followed in connection with the analysis of a fat spread for the determination of a property specified in Table 1 or any other requirement within these regulations shall be based on international acceptable reference methods and procedures.

TABEL/TABLE 1

**KLASSE VAN EN STANDAARDE VIR VETSMERE/  
CLASSES OF AND STANDARDS FOR FAT SPREADS**

(Reg. 3, 5, 8)

Klasbenaming/ Class designation	Alternatiewe klasbenaming/ Alternative class designation	Maksimum melkvetin- houd/Ma- ximum milk fat content  (%)	Maksimum plantvetin- houd/Ma- ximum vegetable fat content  (%)	Maksimum marienevet- inhoud/Ma- ximum marine fat content  (%)	Maksimum dierevetin- houd/Maxi- mum animal fat content  (%)	Totale vetinhoud/ Total fat content  (%)		Voginhoud/ Moisture content  (%)	Maksimum soutinhoud/ Maximum salt content  (%)	Maksimum droëstofin- houd/Maxi- mum fat free dry matter content  (%)
						Mini- mum	Maksi- mum/ Maxi- mum			
1	2	3	4	5	6	7		8	9	10
1. Geel margarien/ Yellow margarine	Margarie/ Margarine	3	90	**	0	80	90	*	2	4
2. Wit margarien/ White margarine	-	3	90	90	90	80	90	*	2	4
3. Geel X% vet- smeer/Yellow X% fat spread	X% vet- meer/X% fat spread	3	<80	**	0	*	<80	*	2	*
4. Wit X% vet- smeer/White X% fat spread	-	3	<80	<80	<80	*	<80	*	2	*
5. Geel vermengde margarie /Yellow margarie blend	Vermengde margarie/ Margarie blend	<45 <sup>a</sup>	81 <sup>a</sup>	**	0	80	90	*	2	*
6. Geel X% vermengde vetsmeer/Yellow X% blended fat spread	X% vermengde vetsmeer/ X% blended fat spread	<40 <sup>a</sup>	72 <sup>a</sup>	**	0	*	<80	*	2	*
7. Vanaspati	-	0	≥99,6	0	0	99,6	*	0,3	*	*
8. Gemengde vanaspa- ti/Mixed vanaspati	-	*	≥99,6	50	50	99,6	*	0,3	*	*

\* Geen spesifikasie/No specification.

\* Sien regulasie 5(3)/ See regulation 5(3).

\* Sien regulasie 5(4)/ See regulation 5(4).



TABEL/TABLE 2

LETTERGROOTTES VAN AANDUIDINGS/  
LETTER SIZES OF INDICATIONS

Aard van besonderhede/ Nature of particulars	Minimum vertikale hoogte van die kleinste letters en syfers in die geval van houers wat -/ Minimum vertical height of the smallest letters and figures in the case of containers containing -		
	100 g en minder bevat/ 100 g and less	Meer as 100 g maar nie meer nie as 2 kg bevat/ More than 100 g but not more than 2 kg	Meer as 2 kg bevat/ More than 2 kg
1	2	3	4
1. Aanduiding van klasbenaming [reg. 7(1)(a) en 8]/Indication of class designation [reg. 7(1)(a) and 8]	2,0 mm	4,0 mm	6,0 mm
2. Byvoegings by klasbenamings [reg. 7(1)(b) en 9]/Additions to class designations [reg. 7(1)(b) and 9]	2,0 mm	2,0 mm	3,0 mm
3. aanduiding van bedoelde gebruik van die produk [reg. 7(1)(c) en 10]/Indication of intended use of the product [reg. 7(1)(c) and 10]	1,0 mm	3,0 mm	4,0 mm
4. Aanduiding van adres [reg. 7(2)(a) en 11]/Indication of address [reg. 7(2)(a) and 11]	1,0 mm	1,0 mm	2,0 mm
5. Aanduiding van land van herkoms [reg. 7(2)(b) en 12]/Indication of country of origin [reg. 7(2)(b) and 12]	1,0 mm [reg. 7(3)]	2,0 mm	2,0 mm
6. Aanduiding van voginhoud [reg. 7(2)(c) en 13(2)]/Indication of moisture content [reg. 7(2)(c) and 13(2)]	1,0 mm [reg. 7(3)]	2,0 mm	2,0 mm