

No. R. 78

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

**REGULATIONS REGARDING THE CLASSIFICATION, PACKING AND MARKING OF  
EDIBLE ICES INTENDED FOR SALE IN THE REPUBLIC OF SOUTH AFRICA**

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

- (a) made the regulations in the Schedule; and
- (b) determined that the said regulations shall come into operation 12 months after date of publication.

**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, unless the context indicates otherwise –

**"address"** means a physical address and includes the street or road number or street 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, or in the case of imported foodstuffs, if otherwise, the name and address as provided for in the Codex Alimentarius Commission's document entitled: *General Standard for the Labelling of Pre-packaged Foods, CODEX STAN 1-1985*;

**"butter fat"** means the fatty portion of milk;

**"consignment"** means a quantity of Edible Ices belonging to the same owner, that is delivered at any one time under cover of the same consignment note, delivery note or receipt note, or is delivered by the same vehicle;

**"container"** means the immediate container or wrapper in which Edible Ices, excluding the class Soft Serve, are packed for sale;

**"dairy ice-cream"** means a product as described in regulation 4(2);

**"dairy ice-cream mix"** means a product as described in regulation 4(2);

**"edible ices"** mean the classes of products as indicated in regulation 4(1)

**"Executive Officer"** means the officer designated under section 2(1) of the Act;

**"factory"** means a building or group of buildings in which Edible Ices are manufactured industrially, or any other premises (e.g. ice-cream parlours/outlets/emporiums) where Edible Ices are manufactured on a small scale;

**"flavoured ice"** means a product as described in regulation 4(9);

**"flavouring"** means a flavouring substance as defined in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

**"food additive"** means an enrichment substance, supplement or any other substance as permitted for in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), which may be added to a foodstuff to effect its keeping quality, consistency, colour, taste, flavour, smell or other technical property (these substances include but is not limited to acids, bases, salts, preservatives, antioxidants, anti-caking agents, colourants, flavourings, emulsifiers, stabilisers and thickeners);

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

**"frozen dairy dessert"** means a product as described in regulation 4(4);

**"frozen dairy dessert mix"** means a product as described in regulation 4(4);

**"frozen dessert"** means a product as described in regulation 4(4), but does not include products such as frozen malva pudding, frozen chocolate pudding, pavlova, roulade, etc.;

**"frozen dessert mix"** means a product as described in regulation 4(4);

**"frozen fruit ice"** means a product as described in regulation 4(8);

**"frozen fruit sorbet"** means a product as described in regulation 4(7);

**"frozen yoghurt"** means a product as described in regulation 4(5);

**"frozen yoghurt and dairy ice-cream blend"** means a product as described in regulation 4(5);

**"frozen yoghurt and ice-cream blend"** means a product as described in regulation 4(5);

**"fruit"** means the edible part of fruit, either fresh or preserved, presented as but not limited to fruit juice, fruit juice concentrate, fruit pulp, fruit puree or fruit extract;

**"ice-cream"** means a product as described in regulation 4(3);

**"ice-cream mix"** means a product as described in regulation 4(3);

**"inclusion"** means any ingredient or foodstuff added to an Edible Ice product after pasteurisation that is regarded as an addition and which would, if taken into account, alter the fat content and total solids content of the product concerned;

**"inspector"** means the executive officer or an officer under his or her control, or an assignee or an employee of an assignee;

**"lot (batch)"** means a definite quantity of a commodity produced essentially under the same conditions and which do not exceed a period of 24 hours;

**"(m/m)"** means the percentage fat, total solids or fruit content, as the case may be, calculated on a mass per mass basis;

**"main ingredient"** means the ingredient(s), excluding water, which by weight or volume, as the case may be, contributes the highest percentage mass or volume to the Edible Ice product concerned;

**"main panel"** means that part of the container, multipack or outer container that bears the brand or trade name of the product in greatest prominence, or any other part of the container, multipack or outer container that bears the brand or trade name in equal prominence;

**"milk"** means the normal secretion of the mammary glands of bovines, goats or sheep;

"milk solids" means the solids of milk after removal of the moisture;

"milk solids non-fat" means the solids of milk after removal of the moisture and fat;

"multipack" means a container other than an outer container which contains a number of Edible Ice products (individual containers) and which may be sold as a unit only;

"outer container" means a container in which more than one container or multipack of Edible Ices is packed;

"overrun" means the extent to which air is incorporated into Edible Ices, excluding the classes Soft Serve, Frozen Fruit Ice and Flavoured Ice, expressed as a percentage;

"overrun cup" means a standardised cup made from any suitable material with a volume of 255 ml, a weight of 218g and a flat top used to determine the overrun;

"pasteurisation" means the heating of a foodstuff (usually in a liquid form) to a specified temperature and for a definite length of time which are most suitable for the foodstuff concerned so that all vegetative pathogens are destroyed, where after it is cooled immediately;

"soft serve" means a product as described in regulation 4(6) and which is sold to the consumer in single serve portions;

"soft serve mix" means a product as described in regulation 4(6);

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

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

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

"yoghurt" means a product manufactured mainly from milk, recombined milk or reconstituted milk which, after pasteurisation, has been fermented with live yoghurt cultures and contain at least  $10^7$  CFU/g of viable yoghurt cultures per gram of final product, except in the case of yoghurt which has been pasteurised after fermentation; and

"yoghurt culture" means a culture consisting of *Lactobacillus delbrueckii subsp. bulgaricus*, *Streptococcus thermophilus*, *Lactobacillus acidophilus*, or any other similar culture used for the manufacture of yoghurt.

### **Scope of regulations**

2. These regulations shall apply to Edible Ices 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 Edible Ices apply.

### **Restrictions on the sale of Edible Ices**

3. (1) No person shall sell Edible Ices in the Republic of South Africa --
- (a) unless such products are classified and presented according to the classes referred to in regulation 4;
  - (b) unless such products comply with the relevant standards for each class referred to in regulation 4;
  - (c) unless the containers, multipacks and outer containers in which such products are packed, comply with the requirements referred to in regulation 5;

- (d) unless such products are marked with the particulars and in the manner prescribed in regulation 6; and
- (e) if such products are marked with particulars and in a manner so prescribed as particulars with which it may not be marked.

(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).

#### ***Classes of and standards for Edible Ices***

##### ***Classes***

4. (1) The classes of Edible Ices are as follows:
- (a) Dairy Ice-cream;
  - (b) Ice-cream;
  - (c) Frozen Dairy Dessert;
  - (d) Frozen Dessert;
  - (e) Frozen Yoghurt;
  - (f) Frozen Yoghurt and Dairy Ice-cream Blend;
  - (g) Frozen Yoghurt and Ice-cream Blend;
  - (h) Soft Serve;
  - (i) Frozen Fruit Sorbet;
  - (j) Frozen Fruit Ice; and
  - (k) Flavoured Ice.

##### ***Standards for classes***

- (2) Dairy Ice-cream Mix and Dairy Ice-cream:
- (a) Dairy Ice-cream Mix --
    - (i) means an unfrozen, homogenised and pasteurised product;
    - (ii) shall contain at least 7% (m/m) of butter fat only;
    - (iii) shall contain at least 33% (m/m) total solids of which at least 20% must be milk solids non-fat; and
    - (iv) may contain other foodstuffs and food additives.
  - (b) Dairy Ice-cream --
    - (i) means aerated and frozen Dairy Ice-cream Mix; and
    - (ii) shall not have an overrun of more than 130%: Provided that --
      - (aa) a maximum deviation of 3% is permissible; and

- (bb) inclusions shall not be taken into account when determining the overrun.
  - (c) Inclusions shall not be taken into account when determining the fat content and the total solids of the Dairy Ice-cream Mix.
- (3) Ice-cream Mix and Ice-cream:
  - (a) Ice-cream Mix --
    - (i) means an unfrozen, homogenised and pasteurised product;
    - (ii) shall contain at least 7% (m/m) vegetable fat or a combination of both vegetable fat and butter fat;
    - (iii) shall contain at least 33% (m/m) total solids of which at least 20% must be milk solids non-fat; and
    - (iv) may contain other foodstuffs and food additives.
  - (b) Ice-cream --
    - (i) means aerated and frozen Ice-cream Mix; and
    - (ii) shall not have an overrun of more than 130%: Provided that --
      - (aa) a maximum deviation of 3% is permissible; and
      - (bb) inclusions shall not be taken into account when determining the overrun.
  - (c) Inclusions shall not be taken into account when determining the fat content and the total solids of the Ice-cream Mix.
- (4) Frozen Dairy Dessert Mix, Frozen Dessert Mix, Frozen Dairy Dessert and Frozen Dessert:
  - (a) Frozen Dairy Dessert Mix --
    - (i) means an unfrozen, homogenised and pasteurised product;
    - (ii) shall contain the following percentage of butter fat only for the fat class concerned:
      - (aa) Frozen Dairy Dessert Mix – more than 3% (m/m) but less than 7% (m/m).
      - (bb) Low Fat Frozen Dairy Dessert Mix – more than 0.5% (m/m) but not exceeding 3% (m/m).
      - (cc) Fat Free Frozen Dairy Dessert Mix – 0.5% (m/m) or less.
    - (iii) shall contain at least 25% (m/m) total solids; and
    - (iv) may contain other foodstuffs and food additives.

- (b) Frozen Dessert Mix –
  - (i) means an unfrozen, homogenised and pasteurised product;
  - (ii) shall contain the following percentage of vegetable fat or a combination of both vegetable fat and butter fat for the fat class concerned:
    - (aa) Frozen Dessert Mix – more than 3% (m/m) but less than 7% (m/m).
    - (bb) Low Fat Frozen Dessert Mix – more than 0.5% (m/m) but not exceeding 3% (m/m).
    - (cc) Fat Free Frozen Dessert Mix – 0.5% (m/m) or less.
  - (iii) shall contain at least 25% (m/m) total solids; and
  - (iv) may contain other foodstuffs and food additives.
- (c) Frozen Dairy Dessert and Frozen Dessert--
  - (i) means aerated and frozen Frozen Dairy Dessert Mix, and aerated and frozen Frozen Dessert Mix; and
  - (ii) shall not have an overrun of more than 130%: Provided that –
    - (aa) a maximum deviation of 3% is permissible; and
    - (bb) inclusions shall not be taken into account when determining the overrun.
  - (d) Inclusions shall not be taken into account when determining the fat content and the total solids of the Frozen Dairy Dessert Mix or Frozen Dessert Mix.

(5) Frozen Yoghurt, Frozen Yoghurt and Dairy Ice-cream Blend, and Frozen Yoghurt and Ice-cream Blend:

- (a) Frozen Yoghurt --
  - (i) means a product obtained by aerating and freezing pasteurised or unpasteurised yoghurt;
  - (ii) shall contain the following percentage of butter fat only for the fat class concerned:
    - (aa) Frozen Yoghurt – more than 3% (m/m).
    - (bb) Low Fat Frozen Yoghurt – more than 0.5% (m/m) but not exceeding 3% (m/m).
    - (cc) Fat Free Frozen Yoghurt – 0.5% (m/m) or less.
  - (iii) shall contain at least 33% (m/m) total solids of which at least 20% must be milk solids non-fat;
  - (iv) shall not have an overrun of more than 130%: Provided that –

- (aa) a maximum deviation of 3% is permissible; and
      - (bb) inclusions shall not be taken into account when determining the overrun; and
    - (v) may contain other foodstuffs and food additives.
  - (b) Frozen Yoghurt and Dairy Ice-cream Blend or Frozen Yoghurt and Ice-cream Blend --
    - (i) means a product obtained by blending yoghurt with either dairy ice-cream mix or ice-cream mix where after it is pasteurised (optional), aerated and frozen: Provided that the yoghurt content of the final product shall in no case be less than 30% (m/m);
    - (ii) shall contain at least --
      - (aa) 7% (m/m) butter fat only in the case where yoghurt and dairy ice-cream mix are blended; or
      - (bb) 7% (m/m) vegetable fat and butter fat combined in the case where yoghurt and ice-cream mix are blended;
    - (iii) shall contain at least 33% (m/m) total solids of which at least 20% must be milk solids non-fat;
    - (iv) shall not have an overrun of more than 130%: Provided that --
      - (aa) a maximum deviation of 3% is permissible; and
      - (bb) inclusions shall not be taken into account when determining the overrun; and
    - (v) may contain other foodstuffs and food additives.
  - (c) Inclusions shall not be taken into account when determining the fat content and the total solids of the unfrozen Yoghurt, the blend of Yoghurt and Dairy Ice-cream Mix or the blend of Yoghurt and Ice-cream Mix.
- (6) Soft Serve Mix and Soft Serve:
- (a) Soft Serve Mix --
    - (i) means an unfrozen, homogenised and pasteurised product;
    - (ii) shall contain at least 3% (m/m) vegetable fat or a combination of both vegetable fat and butter fat;
    - (iii) shall contain at least 25% (m/m) total solids; and
    - (iv) may contain other foodstuffs and food additives.
  - (b) Soft Serve means semi-frozen Soft Serve Mix.
  - (c) Inclusions shall not be taken into account when determining the fat content and the total solids of the Soft Serve Mix.

- (7) Frozen Fruit Sorbet --
- (a) means an aerated and frozen product consisting of mainly water and sugars;
  - (b) shall contain no added butter fat, milk solids non-fat or whey powder;
  - (c) shall contain at least 15% (m/m) fruit;
  - (d) may contain not more than 2.9% (m/m) vegetable fat;
  - (e) shall not have an overrun of more than 130%: Provided that –
    - (i) a maximum deviation of 3% is permissible; and
    - (ii) inclusions shall not be taken into account when determining the overrun; and
  - (f) may contain other foodstuffs and food additives.
- (8) Frozen Fruit Ice --
- (a) means a frozen product consisting of mainly water and sugars;
  - (b) shall contain no added butter fat or milk solids non-fat;
  - (c) shall contain at least 6% (m/m) fruit; and
  - (d) may contain other foodstuffs and food additives.
- (9) Flavoured Ice --
- (a) means a frozen product consisting of mainly water and sugars;
  - (b) shall contain no added butter fat or milk solids non-fat;
  - (c) shall contain less than 6% (m/m) fruit or only flavourings and colourants; and
  - (d) may contain other foodstuffs and food additives.

***Requirements for containers, multipacks and outer containers***

5. (1) Containers for Edible Ices shall --
- (a) be intact, clean, suitable and strong enough for packing and normal handling of the product;
  - (b) not impart any undesirable taste or flavour to the contents thereof; and
  - (c) be closed properly in a manner permitted by the nature thereof.
- (2) If containers containing Edible Ices are packed in multipacks and/or outer containers, such multipacks and/or outer containers shall be clean, neat and intact.

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

6. (1) Subject to the provisions of subregulation (9), the main panel of each container containing Edible Ices, excluding the class Soft Serve, shall be marked with the following particulars at least in English:



***Class designation***

- (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; and
    - (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;
  - (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 or brand name.

***Additions to the class designation***

- (b) The applicable additions to the class designation or alternative class designation:
- (i) If a flavouring has been added to Edible Ices in order to render a distinctive flavour thereto, the applicable class designation or alternative class designation shall either be preceded by the expression "X Flavoured" or followed by the expression "with X Flavour" or "with X Flavouring", where "X" indicates the name(s) of the flavouring(s) used, unless the flavouring concerned has been added with the intention to enhance the flavour of the fruit or added foodstuff concerned.
  - (ii) If lactic acid and yoghurt flavouring, instead of real yoghurt, have been added to the class Dairy Ice-cream, Ice-cream, Frozen Dairy Dessert, Frozen Dessert or Soft Serve, the applicable class designation or alternative class designation shall either be preceded by the expression "Yoghurt Flavoured" or followed by the expression "with Yoghurt Flavour" or "with Yoghurt Flavouring".
  - (iii) If a foodstuff has been added to Edible Ices in order to render a distinctive taste thereto --
    - (aa) the applicable class designation or alternative class designation shall be followed 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. "with chocolate pieces", "with choc-chip cookies", "with pineapple and mango pieces", etc); or
    - (bb) the applicable class designation or alternative class designation shall be preceded by the generic name(s) of the foodstuff(s) added (e.g. "choc-chip cookies ice-cream", "mango and peach frozen yoghurt", etc.); and

- (cc) 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), shall be complied with.

***The expression "pasteurised"***

- (c) The expression "Pasteurised" in the case where –
  - (i) Frozen Yoghurt has been pasteurised after fermentation; and
  - (ii) blends of yoghurt and either dairy ice-cream mix or ice-cream mix has been pasteurised.

***The expression "contains no live cultures"***

- (d) The expression "contains no live cultures", "contains no live micro-organisms", or wording having a similar meaning, in close proximity to the class designation or alternative class designation, in the case where –
  - (i) Frozen Yoghurt has been pasteurised after fermentation; and
  - (ii) blends of yoghurt and either dairy ice-cream mix or ice-cream mix has been pasteurised.

(2) Subject to the provisions of subregulation (9), each container containing Edible Ices, excluding the class Soft Serve, shall either on the main panel or on any other conspicuous place thereon, be marked with the following particulars at least in English:

***Name and address***

- (a) The name and address of the manufacturer, packer, importer, seller or person or entity on whose behalf the product has been packed in a letter size of at least 1 mm in height.

***Country of origin***

- (b) The country of origin which shall be declared on the label as follows in a letter size of at least 1 mm in height:
  - (i) "Product of (name of country)" if all the main ingredients, processing and labour used to make the product are from one specific country;
  - (ii) "Produced in (name of country)", "Processed in (name of country)", "Manufactured in (name of country)", "Made in (name of country)", or wording having a similar meaning, when the product is processed in a second country which changes its nature; or
  - (iii) In the case where single ingredient agricultural commodities are imported in bulk and where owing to climatic, seasonal or other contingencies more than one country may be the source of the single ingredient agricultural commodity, the wording 'Product of (name(s) of country(ies))' separated by the expression 'and/or', shall be declared on the label of the final pre-packed foodstuff: Provided that the final end product remains a single ingredient agricultural commodity:

Provided further that the words "Packed in (name of country)" may be used in addition to the requirements of subparagraph (i) or (ii) above.

***Net mass or volume***

- (c) The net mass or volume of the Edible Ices packed therein as required in terms of the Trade Metrology Act, 1973 (Act No. 77 of 1973): Provided that the letter sizes of such indications shall comply with the requirements of the Trade Metrology Act, 1973 (Act No. 77 of 1973).

***Individual units packed in multipacks***

- (3) In the case where individual units are packed in a multipack, only the particulars prescribed in subregulations (1)(a), (1)(b), (2)(a) and (8) need be indicated on the containers containing the individual units: Provided that such individual units may not be sold loose.

***Multipacks***

- (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) and (2); 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).

***Outer containers***

- (5) In the case of an outer container, at least the following marking requirements shall be indicated on the outer container:

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

***Soft Serve dispensing machines***

- (6) The class designation "Soft Serve" shall be indicated conspicuously on each soft serve dispensing machine where Soft Serve is sold in single serve portions.

***Single serve portions***

- (7) In the case of Edible Ices, excluding the class Soft Serve, sold in single serve portions, the applicable class designation or alternative class designation shall be indicated conspicuously on either the immediate container in which it is displayed, or on the display freezer unit itself.

***Ingredients list***

- (8) The ingredients list shall be indicated in the manner prescribed in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) in a letter size of at least 1 mm in height.

- (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 is 3 mm, except where otherwise indicated and in the case of subregulations (6) and (7) where a minimum letter size of 50 mm is required: Provided that --
  - (i) the minimum vertical height shall be applicable to the smallest letter or figure in the indications; and
  - (ii) if the letter size of the additions to the class designation or alternative class designation, as required in subregulation (1)(b), differs in size from letter size of the class designation or alternative class designation indication, the difference in size between the smallest and the largest letter shall not exceed 3 mm.

***Restricted particulars on containers, multipacks and outer containers***

7. (1) (a) No class designation other than the applicable class designation or alternative class designation shall be marked on a container, multipack or outer container.
- (b) No word or expression which so nearly resembles the class designation or alternative class designation of a product that it could be misleading with regard to the composition shall be marked on the container, multipack or outer container.

(2) Depictions or illustrations of the specific fruit(s) added to or used in the manufacturing of Edible Ices shall only be allowed if the product concerned contains at least 6% (m/m) or more fruit: Provided that depictions or illustrations of any other ingredient(s) emphasised on a container, multipack or outer container shall only be allowed if 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), have been complied with.

(3) No word, mark, illustration, depiction or any 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 Edible Ices shall be marked on a container, multipack or outer container.

(4) No registered trade mark or brand name which may possibly, directly or by implication, be misleading or create a false impression of the contents of a container, multipack or outer container containing Edible Ices, shall appear on such a container, multipack or outer container.

(5) No claim regarding the absence of any substance that does not normally occur in Edible Ices shall be marked on the container, multipack or outer container thereof except in cases where it is allowed for in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972).

- (6) (a) The words "fresh", "freshly", "natural", "nature's", "pure", "traditional", "original", "authentic", "real", "genuine", "home made", "selected", "premium", "finest", "quality" or "best", or any other words, statements, phrases, logos or expressions having a similar meaning, whether directly or by implication, shall not appear on a container, multipack or outer container of an Edible Ice product unless the criteria on the use of such terms, as set out in the guidance notes compiled by the United Kingdom's Food Standard Agency, have been complied with. The latest version of these guidance notes is available on the Department's website or may be obtained directly from the office of the Executive Officer.
- (b) Registered trade marks or brand names bearing the words, statements, phrases, logos or expressions referred to in paragraph (a) and which have been in use on

containers, multipacks or outer containers containing Edible Ices prior to the publication of these regulations, shall not be subject to these restrictions.

(7) No claim which compares the total fat, saturated fat, cholesterol, sugar, sodium or salt, or energy value of two or more similar Edible Ices by using words such as "reduced", "less than", "fewer", "light" and "lite", or words having a similar meaning, shall be made on the container, multipack or outer container thereof, unless the following conditions are complied with:

- (a) The Edible Ice product shall be compared with a different version of the same or similar product.
  - (b) The Edible Ice product being compared shall be clearly marked on the container and multipack with the following information:
    - (i) A statement of the amount of difference in the energy value or relevant nutrient content, expressed as a percentage.
    - (ii) The identity of the Edible Ice product(s) to which it is being compared in close proximity to or as part of the comparative claim.
  - (c) The comparison shall be based on a relative difference of at least 25% in the energy value or nutrient content of an equivalent mass or volume.
  - (d) The Edible Ice product shall be marked with the prescribed nutritional information declaration required in terms of the regulations published under the Foodstuffs, Cosmetics and Disinfects Act, 1972 (Act No. 54 of 1972).
- (8) The provisions of this regulation shall *mutatis mutandis* apply to—
- (a) particulars that are marked on a soft serve dispensing machine in the case of the class Soft Serve;
  - (b) particulars that are marked on the container or the display freezer unit in the case of Edible Ices, excluding the class Soft Serve, sold in single serve portions;
  - (c) particulars that are marked on a notice board displayed at or in the immediate vicinity of Edible Ices that are kept or displayed for sale; and
  - (d) all advertisements for Edible Ices.

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

8. (1) The container of an Edible Ice product 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 an Edible Ice product originating from the same production lot (batch).

#### **Sampling and Analysis of Edible Ices**

##### **Sampling**

9. (1) (a) An inspector may in any consignment of Edible Ices open as many containers, multipacks and outer 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.

- (b) An inspector shall be satisfied that the samples so extracted are representative of the product in the consignment concerned.
- (c)
  - (i) Samples of Edible Ices shall be obtained directly from the factory.
  - (ii) A sample shall consist of at least 100g (150g if product has any inclusions) of final product or Soft Serve Mix, as the case may be.
  - (iii) The samples shall be kept in the frozen state (except for the Soft Serve Mix) and shall be transported to the laboratory in refrigerated containers: Provided that if the analysis is not carried out immediately, the samples shall be kept under refrigeration with the maximum temperature not exceeding  $-5^{\circ}\text{C}$  at any time.

#### Methods of analysis

- (2) (a) The preparation of the sample shall be done in accordance with the procedure set out in the "A.O.A.C. Official Method 969.20 – Ice Cream and Frozen Desserts" (Official Methods of Analysis of A.O.A.C. International, 17th Edition, 2000) or any other international recognised and acceptable reference methods and procedures.
- (b) The fat content and total solids content shall be determined in accordance with the methods set out in Table 1 below, or any other international recognised and acceptable reference methods and procedures.

**TABLE 1**  
**METHODS OF ANALYSIS**

Nature of determination	Method description	Method source
1	2	3
<b>Fat content</b>	"Milk - determination of the fat content - Röse Gottlieb – Gravimetric method (reference method)"	International Dairy Federation, <b>IDF 1C: 1987</b>
	"Dried milk, dried whey, dried buttermilk and dried butterserum - determination of the fat content – Röse Gottlieb - (reference method)"	International Dairy Federation, <b>IDF 9C: 1987</b>
	"Milk based edible ices and ice mixes – Determination of fat content – Gravimetric method (reference method)"	International Organization for Standardization, <b>ISO 7328: 2008</b>
	"Skimmed milk, whey and buttermilk - Determination of the fat content (reference method)".	International Dairy Federation, <b>IDF 22B: 1987</b>

Nature of determination	Method description	Method source
1	2	3
	"Milk powders, whey powders, blend of skimmed milk and vegetable fat in powder form – Determination of the fat content – Gravimetric method (Röse Gottlieb)"	International Dairy Federation, <b>IDF 9: 2008</b>
	"Dried milk and dried milk products - Determination of fat content - Gravimetric method (reference method)"	International Organization for Standardization, <b>ISO 1736: 2008</b>
<b>Total solids content</b>	"Ice-cream and milk ice – Determination of total solids content (reference method)"	International Organization for Standardization, <b>ISO 3728: 2004</b>
	"Milk, Cream and Evaporated Milk – determination of total solids content (reference method)"	International Dairy Federation, <b>IDF 21B: 1987</b>
	"Methods for determination of total solids content in milk, cream and evaporated milk (reference method)"	International Organization for Standardization, <b>ISO 6731: 1989</b>

#### **Determination of overrun**

10. (1) The overrun of a Dairy Ice-cream, Ice-cream, Frozen Dairy Dessert, Frozen Dessert, Frozen Yoghurt, Frozen Yoghurt and Dairy Ice-cream Blend, Frozen Yoghurt and Ice-cream Blend and Frozen Fruit Sorbet sample shall be determined at the factory by using one of the following methods:

#### **Calculation by volume**

- (a) The overrun is calculated by using the following formula:

$$\% \text{ Overrun} = \frac{(\text{Volume of finished product} - \text{Volume of mix used})}{\text{Volume of mix used}} \times \frac{100}{1}$$

#### **Use of an overrun cup and overrun table**

- (b) The overrun is determined as follows by means of an overrun cup:
- (i) Place a clean, dry overrun cup on a scale and adjust the scale to zero.
  - (ii) Fill the overrun cup completely with Dairy Ice-cream Mix, Ice-cream Mix, Frozen Dairy Dessert Mix, Frozen Dessert Mix, unfrozen Yoghurt, a blend of unfrozen Yoghurt and Dairy Ice-cream Mix, a blend of unfrozen Yoghurt and Ice-cream Mix or unfrozen Fruit Sorbet, as the case may be.
  - (iii) Weigh the overrun cup and its contents and record the mass.
  - (iv) Clean the overrun cup thoroughly and dry it.

- (v) Slightly overfill the overrun cup with aerated Dairy Ice-cream, Ice-cream, Frozen Dairy Dessert, Frozen Dessert, Frozen Yoghurt, Frozen Yoghurt and Dairy Ice-cream Blend, Frozen Yoghurt and Ice-cream Blend or Frozen Fruit Sorbet, as the case may be.
- (vi) Remove all inclusions (e.g. chocolate coating, pieces of chocolate, fruit, nuts, etc) where possible, and ensure that no air pockets are trapped in the cup.
- (vii) Level the sample in the overrun cup off with the surface of the cup.
- (viii) Weigh the overrun cup and its contents and record the mass.
- (ix) Calculate the overrun by using the following formula:

$$\% \text{ Overrun} = \frac{\text{Mass of the unfrozen mix/product}}{\text{Mass of the aerated finished product}} - 1 \times 100$$

- (x) The overrun can also be determined by using an overrun table as supplied by the factory and which is based on the specific gravity value (SG) of the product concerned: Provided that the specific gravity value (SG) of the product concerned shall be provided by the factory on request from the inspector.

(2) In the case of Dairy Ice-cream, Ice-cream, Frozen Dairy Dessert, Frozen Dessert, Frozen Yoghurt, Frozen Yoghurt and Dairy Ice-cream Blend, Frozen Yoghurt and Ice-cream Blend or Frozen Fruit Sorbet packed in smaller units, the volume can be determined as follows by the displacement of water:

- (a) Weigh the sample and its container and record the mass.
- (b) Remove the sample from its container.
- (c) Weigh the empty container and record the mass.
- (d) Place a known volume of water into a measuring beaker.
- (e) Submerge the sample in the water and record how much water is displaced.
- (f) Calculate the overrun by using the following formula:

$$\% \text{ Overrun} = \frac{[\text{Specify gravity (SG)} \times \text{Volume (V)} \times 100]}{\text{Mass (M)}} - 100$$

Where:

SG = Specific gravity value of the product concerned which shall be provided by the factory on request from the inspector

V = The volume of water displaced by the sample

M = The mass of the sample after subtracting the mass of the container

### **Offences and penalties**

11. 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 to imprisonment in accordance with section 11 of the Act.



TABLE 2  
CLASSES OF AND STANDARDS FOR EDIBLE ICES, EXCLUDING FROZEN FRUIT SORBET, FROZEN FRUIT ICE AND FLAVOURED ICE

Class	Class Designation	Alternative Class Designation	Fat Content* (m/m)		Minimum Total Solids (m/m)
			4	5	
<b>Dairy Ice-cream</b>	Dairy Ice-cream	-	at least 7%	33%	
<b>Ice-cream</b>	Ice-cream	-	at least 7%	33%	
<b>Frozen Dairy Dessert</b>	Frozen Dairy Dessert	Frozen Dairy Confection	more than 3% but less than 7%	25% for all classes	
	Low Fat Frozen Dairy Dessert	Low Fat Frozen Dairy Confection	more than 0.5% but not exceeding 3%		
	Fat Free Frozen Dairy Dessert	Fat Free Frozen Dairy Confection	0.5% or less		
<b>Frozen Dessert</b>	Frozen Dessert	Frozen Confection	more than 3% but less than 7%	25% for all classes	
	Low Fat Frozen Dessert	Low Fat Frozen Confection	more than 0.5% but not exceeding 3%		
	Fat Free Frozen Dessert	Fat Free Frozen Confection	0.5% or less		
<b>Frozen Yoghurt</b>	Frozen Yoghurt	Full Cream Frozen Yoghurt	more than 3%	33% for all classes	
	Low Fat Frozen Yoghurt	-	more than 0.5% but not exceeding 3%		
	Fat Free Frozen Yoghurt	-	0.5% or less		

Class	Class Designation	Alternative Class Designation	Fat Content* (m/m)		Minimum Total Solids (m/m)
			4	5	
1	2	3			
Frozen Yoghurt and Dairy Ice-cream Blend	Frozen Yoghurt and Dairy Ice-cream Blend	Frozen Yoghurt and Dairy Ice-cream Medley; Yoghurt and Dairy Ice-cream Blend; Yoghurt and Dairy Ice-cream Medley	at least 7%		33%
Frozen Yoghurt and Ice-cream Blend	Frozen Yoghurt and Ice-cream Blend	Frozen Yoghurt and Ice-cream Medley; Yoghurt and Ice-cream Blend; Yoghurt and Ice-cream Medley	at least 7%		33%
Soft Serve	Soft Serve	-	at least 3%		25%

\* "Fat content" in the case of the classes –

(a) Dairy Ice-cream, Frozen Dairy Dessert, Frozen Yoghurt and Frozen Yoghurt and Dairy Ice-cream Blend means: Butter fat only; and

(b) Ice-cream, Frozen Dessert, Frozen Yoghurt and Ice-cream Blend, and Soft Serve means: Vegetable fat or a combination of both vegetable fat and butter fat.

- Denotes no specification

**TABLE 3**  
**CLASSES OF AND STANDARDS FOR FROZEN FRUIT SORBET, FROZEN FRUIT ICE AND FLAVOURED ICE**

Class	Class Designation	Alternative Class Designation	Fruit Content (m/m)	Fat Content* (m/m)
1	2	3	4	5
Frozen Fruit Sorbet	Frozen Fruit Sorbet	Fruit Sorbet	at least 15%	not more than 2.9%
Frozen Fruit Ice	Frozen Fruit Ice	Fruit Ice; Fruit Ice Confection	at least 6%	-
Flavoured Ice	Flavoured Ice	Flavoured Ice Confection	less than 6%	-

\* "Fat content" in the case of the class Frozen Fruit Sorbet means: Vegetable fat only

- Denotes no specification – refer to individual standards