

**DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT**

**NO. R. 3617**

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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, Land Reform and Rural Development has under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) made the regulations in the Schedule.



Mrs A.T. Didiza

Minister of Agriculture, Land Reform and Rural Development.

**SCHEDULE**

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**PART I****DEFINITIONS, SCOPE AND RESTRICTIONS****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;

**"assignee"** means a person, undertaking, body, institution, association or board designated under section 2(3) of the Act;

**"batch"** means a definite quantity of an Edible Ice product produced essentially under the same conditions and which do not exceed a period of 24 hours;

**"best before date"** or **"best quality before date"** means the date which signifies the end of the period under any stated storage conditions during which the unopened product will remain fully marketable and will retain any specific qualities for which implied or express claims have been made, however, beyond the date the food may still be acceptable for consumption;

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

**"close proximity"** means in the immediate vicinity of or nearest/ closest/ next to, and which shall not be interrupted or separated by for example any wording, symbols, figures, lines, depictions, etc.;

**"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 --

- (a) the immediate packaging (container or wrapper) in which a single Edible Ice product, excluding Soft Serve, is presented for sale; and
- (b) a multipack which contains two or more Edible Ice products, and which is presented for sale as a unit only;

**"dairy gelato"** means a product as described in regulation 7(3);

**"dairy ice-cream"** means a product as described in regulation 5(2);

**"dairy ice-cream mix"** means a product as described in regulation 5(1);

**"edible ices"** mean the classes of products set out in regulation 4;

**"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 12;

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

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

**"frozen dairy dessert"** means a product as described in regulation 7(3);

**"frozen dairy dessert mix"** means a product as described in regulation 7(1);

**"frozen dessert"** means a product as described in regulation 7(3), but excludes baked frozen desserts;

**"frozen dessert mix"** means a product as described in regulation 7(2);

**"frozen fruit ice"** means a product as described in regulation 11;

**"frozen fruit sorbet"** means a product as described in regulation 10;

**"frozen yoghurt"** means a product as described in regulation 8(1);

**"frozen yoghurt and dairy ice-cream blend"** means a product as described in regulation 8(2);

**"frozen yoghurt and ice-cream blend"** means a product as described in regulation 8(2);

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

**"gelato"** means a product as described in regulation 7(3);

**"ice-cream"** means a product as described in regulation 6(2);

**"ice-cream mix"** means a product as described in regulation 6(1);

**"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 an officer under the control of the Executive Officer, or an assignee or an employee of an assignee;

**"label"** means any tag, brand, mark, pictorial, graphic or other descriptive matter, which is written, printed, stencilled, marked, embossed, impressed upon, or permanently attached to a container of an Edible Ice product, and includes labelling for the purpose of promoting its sale or disposal;

**"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, outer container or label that bears the brand name or trade mark in greatest prominence, or any other part of the container, outer container or label that bears the brand or trade name in equal prominence;

**"milk"** means a product as defined in the latest regulations relating to the classification, packing and marking of dairy products and imitation dairy products intended for sale in the Republic of South Africa published under the Act;

**"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;

**"(m/m)"** means mass per mass basis;

**"outer container"** means any packaging in which two or more containers containing Edible Ices is packed, irrespective whether it completely or partially encloses the containers;

**"overrun cup"** means a cup made from any material with a flat top which is suitable for filling ice cream into, and used to determine the overrun;

**"pasteurisation"** means the heat treatment of an Edible Ice product as defined in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

**"soft serve"** means a product as described in regulation 9(2) and which is sold to the consumer in single serve portions;

**"soft serve mix"** means a product as described in regulation 9(1);

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

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

**"use by date" or "expiration date"** means the date which signifies the end of the period under any stated storage conditions, after which the product should not be sold or consumed due to safety and quality reasons;

**"variant name"** means a name used in addition to and separately from the class designation to, amongst other --

- (a) distinguish between the different variants in a particular class of Edible Ices; or
- (b) emphasise a certain taste and/or flavour profile and/or appearance of the Edible Ice product;

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

**"yoghurt"** means a product as defined in the latest regulations relating to the classification, packing and marking of dairy products and imitation dairy products intended for sale in the Republic of South Africa published under the Act, and which contain at least  $10^6$  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 control over 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 for sale according to the classes referred to in regulation 4;
  - (b) unless such products comply with the relevant standards for each class referred to in regulations 5 to 12;
  - (c) unless the containers and outer containers in which such products are packed, comply with the requirements referred to in regulation 13;
  - (d) unless such products are marked with the particulars and in the manner prescribed in regulations 14 to 21; and
  - (e) if such products are marked with any restricted particulars or in a manner which is prohibited in terms of regulation 22.
- (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 sub-regulation (1) above.

## **PART II CLASSES OF AND STANDARDS FOR EDIBLE ICES**

#### **Classes of Edible Ices**

4. (1) The classes of Edible Ices shall be 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.
- (k) Flavoured ice.
- (2) (a) Each class of Edible Ice referred to in sub-regulation (1) above, shall comply with the applicable compositional standards set out in regulations 5 to 12 respectively.
- (b) A summary of the compositional standards for Edible Ices, excluding the classes Frozen Fruit Sorbet, Frozen Fruit Ice and Flavoured Ice, are set out in Annexure A.
- (c) A summary of the compositional standards for the classes Frozen Fruit Sorbet, Frozen Fruit Ice and Flavoured Ice, are set out in Annexure B.

***Standards of classes of Edible Ices***

***Dairy ice-cream mix and Dairy ice-cream***

5. (1) Dairy ice-cream mix –
- (a) means an unfrozen, homogenised and pasteurised product;
  - (b) shall contain at least 7% (m/m) of butter fat only;
  - (c) shall contain at least 33% (m/m) total solids of which at least 20% must be milk solids non-fat [e.g.  $20/100 \times 33/1 = 6.6\%$  (min) for a product containing 33% total solids]; and
  - (d) may contain other foodstuffs and food additives.
- (2) Dairy ice-cream --
- (a) means aerated and frozen Dairy ice-cream mix; and
  - (b) shall not have an overrun of more than 130%: Provided that a maximum deviation of 3% is permissible.

***Ice-cream mix and ice-cream***

6. (1) Ice-cream mix --
- (a) means an unfrozen, homogenised and pasteurised product;
  - (b) shall contain at least 7% (m/m) vegetable fat or a combination of both vegetable fat and butter fat;
  - (c) shall contain at least 33% (m/m) total solids; and
  - (d) may contain other foodstuffs and food additives.

(2) Ice-cream --

- (a) means aerated and frozen Ice-cream mix; and
- (b) shall not have an overrun of more than 130%: Provided that a maximum deviation of 3% is permissible.

***Frozen dairy dessert mix, Frozen dessert mix, Frozen dairy dessert and Frozen dessert***

7. (1) Frozen dairy dessert mix --

- (a) means an unfrozen, homogenised and pasteurised product;
- (b) shall contain the following percentage of butter fat only for the fat class concerned:
  - (i) Frozen dairy dessert mix – more than 3% (m/m) but less than 7% (m/m).
  - (ii) Low fat frozen dairy dessert mix – more than 0.5% (m/m) but not exceeding 3% (m/m).
  - (iii) Fat free frozen dairy dessert mix – 0.5% (m/m) or less.
- (c) shall contain at least 25% (m/m) total solids; and
- (d) may contain other foodstuffs and food additives.

(2) Frozen dessert mix --

- (a) means an unfrozen, homogenised and pasteurised product;
- (b) shall contain the following percentage of vegetable fat or a combination of both vegetable fat and butter fat for the fat class concerned:
  - (i) Frozen dessert mix – more than 3% (m/m) but less than 7% (m/m).
  - (ii) Low fat frozen dessert mix – more than 0.5% (m/m) but not exceeding 3% (m/m).
  - (iii) Fat free frozen dessert mix – 0.5% (m/m) or less.
- (c) shall contain at least 25% (m/m) total solids; and
- (d) may contain other foodstuffs and food additives.

(3) (a) Frozen dairy dessert and Frozen dessert --

- (i) means frozen Dairy dessert mix or frozen Dessert mix, which may be aerated or not; and
- (ii) shall, if aerated, not have an overrun of more than 130%: Provided that a maximum deviation of 3% is permissible.
- (b) Frozen dairy dessert may be presented for sale as "Dairy Gelato": Provided that it shall not have an overrun of more than 50%: Provided further that a maximum deviation of 3% is permissible.
- (c) Frozen dessert may be presented for sale as "Gelato": Provided that it shall not have an overrun of more than 50%: Provided further that a maximum deviation of 3% is permissible.

***Frozen yoghurt, Frozen yoghurt and Dairy ice-cream blend, and Frozen yoghurt and Ice-cream blend***

8. (1) Frozen yoghurt --
- (a) means a product obtained by aerating and freezing pasteurised or unpasteurised yoghurt;
  - (b) shall contain the following percentage of butter fat only for the fat class concerned:
    - (i) Frozen yoghurt – more than 3% (m/m).
    - (ii) Low fat frozen yoghurt – more than 0.5% (m/m) but not exceeding 3% (m/m).
    - (iii) Fat free frozen yoghurt – 0.5% (m/m) or less.
  - (c) shall contain at least 33% (m/m) total solids of which at least 20% must be milk solids non-fat [e.g.  $20/100 \times 33/1 = 6.6\%$  (min) for a product containing 33% total solids];
  - (d) shall not have an overrun of more than 130%: Provided that a maximum deviation of 3% is permissible; and
  - (e) may contain other foodstuffs and food additives.
- (2) Frozen yoghurt and Dairy ice-cream blend or Frozen yoghurt and Ice-cream blend --
- (a) 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);
  - (b) shall contain at least --
    - (i) 7% (m/m) butter fat only in the case where yoghurt and dairy ice-cream mix are blended; or
    - (ii) 7% (m/m) vegetable fat and butter fat combined in the case where yoghurt and ice-cream mix are blended;
  - (c) shall contain at least 33% (m/m) total solids of which at least 20% must be milk solids non-fat [e.g.  $20/100 \times 33/1 = 6.6\%$  (min) for a product containing 33% total solids] when the blend consists of yoghurt and dairy ice-cream; or
  - (d) shall contain at least 33% (m/m) total solids when the blend consists of yoghurt and ice-cream;
  - (e) shall not have an overrun of more than 130%: Provided that a maximum deviation of 3% is permissible; and
  - (f) may contain other foodstuffs and food additives.

***Soft serve mix and Soft serve***

9. (1) Soft serve mix --
- (a) means an unfrozen, homogenised and pasteurised product;
  - (b) shall contain at least 3% (m/m) vegetable fat or a combination of both vegetable fat and butter fat;
  - (c) shall contain at least 25% (m/m) total solids; and
  - (d) may contain other foodstuffs and food additives.



- (2) Soft serve means semi-frozen Soft serve mix.

***Frozen fruit sorbet***

10. 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 a maximum deviation of 3% is permissible; and
- (f) may contain other foodstuffs and food additives.

***Frozen fruit ice***

11. 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.

***Flavoured ice***

12. 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.

**PART III  
CONTAINERS AND OUTER CONTAINERS**

***Requirements for containers and outer containers***

13. (1) A container in which an Edible ice is packed shall --

- (a) be manufactured 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 taste or flavour to the contents thereof;
- (b) be so strong that it will not be damaged or deformed during normal storage, handling and transport practices;

- (c) be intact and clean; and
  - (d) be closed properly in a manner permitted by the nature thereof.
- (2) If containers containing Edible ices are packed in outer containers, such outer containers shall
- (a) be intact, clean, neat, suitable and strong enough; and
  - (b) not impart any undesirable taste or flavour to the contents thereof.

#### PART IV MARKING REQUIREMENTS

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

14. (1) Except where specifically prescribed, all other marking requirements as specified by these regulations shall be clearly legible and be indicated at least in English, in detached letters or figures of at least 1 mm in size for lower case vowels.

(2) Each container in which Edible Ices, excluding the class Soft serve, is packed shall be marked with the following particulars at least in English:

- (a) **The class designation and, where applicable, the additions to the class designation**, as specified in regulations 15 and 16 respectively, in detached letters of the same type, size, colour and font, prominently on at least one main panel in a letter size of at least 2 mm for lower case vowels: Provided that –
    - (i) the difference in letter size between the smallest letter in the class designation and smallest letter in the additions to the class designation indication shall not exceed 3 mm;
    - (ii) trade marks forming part of the additions to the class designation may be indicated in letters of a different type, size, colour and font; and
    - (iii) the following particulars may be indicated in one different colour only:
      - (aa) The fat class (i.e. 'low fat' or 'fat free'), where applicable, in the class designation in the case of the classes Frozen dairy dessert, Frozen dessert and Frozen yoghurt; or
      - (bb) The name of the added foodstuff and/ or the name of the added flavourant when used in the additions to the class designation.
  - (b) **The additional particulars on the main panel**, where applicable, as specified in regulation 17.
  - (c) **The additional particulars on the container**, as specified in regulation 18.
  - (d) **The name and address**, as specified in regulation 19.
  - (e) **The country of origin**, as specified in regulation 20.
  - (f) **The date marking** (i.e. "best before" or "best quality before" or "use by" or "expiration date") or **batch code** or **batch number** for the purpose of traceability and batch identification, as specified in regulation 21.
- (3) (a) The particulars referred to in sub-regulation (2)(a), (d), (e) and (f) above shall be marked on an outer container in which more than one container of an Edible Ice is packed.
- (b) The marking requirements prescribed in paragraph (a) above need not to be complied with if –
- (i) a transparent outer container is used and the particulars on the containers packed therein are visible from the outside; or

- (ii) the same label which is affixed to the containers is also affixed to the outer container.

(4) When Edible Ices products from a dispensing machine are sold in single serve portions, the applicable class designation shall be marked conspicuously on each dispensing machine in a letter size of at least 50 mm for lower case vowels: Provided that in the case of semi-frozen Edibles Ices other than the class Soft serve, the applicable class designation shall be preceded by the expression "semi-frozen" (e.g. 'semi-frozen low fat dairy dessert', 'semi-frozen fat free yoghurt', etc.) in letters of the same size as the class designation.

(5) When Edible Ices, excluding the class Soft serve, are sold in single serve portions, the applicable class designation shall be indicated conspicuously on either the immediate container in which it is displayed, or on the display freezer unit in which the products are displayed, in a letter size of at least 50 mm for lower case vowels.

- (6) (a) When 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 each container containing the individual units in a letter size of at least 2 mm for lower case vowels: Provided that --

(i) such individual units may not be sold loose and that the multipack is marked with all the prescribed marking requirements; and

(ii) the containers containing individual units shall be exempted from having to indicate these particulars in instances where it is technically not practical to print on the type of packaging material used due to the nature thereof.

- (b) The requirements and exemptions in paragraph (a) above shall not apply when the individual units are sold loose (i.e. have not been packed in a multipack).

- (7) No word or expression may be bigger than the class designation unless it is --

- (a) a registered trade mark or brand name;
- (b) a variant name (e.g. 'Neapolitan'; 'Classic'; 'Orange Maid'; 'Almond'; etc.);
- (c) wording communicating to the consumer that a particular product is new, has been produced according to a new recipe and/or is on promotion for a maximum period of 12 months (e.g.: 'new', 'try me I'm new', 'new recipe', 'on promotion', 'on sale', etc.); or
- (d) an expression indicating the nett mass or volume indication as prescribed by the Legal Metrology Act, 2014 (Act No. 9 of 2014).

#### **Indicating the class designation**

15. (1) The class designation of an Edible Ice shall be the applicable class designation or alternate class designation as specified in columns 2 and 3 of Table 1 below:

**TABLE 1**  
**CLASS DESIGNATIONS AND ALTERNATE CLASS DESIGNATIONS FOR EDIBLE ICES**

<b>Class</b>	<b>Class designation</b>	<b>Alternate class designation</b>
<b>1</b>	<b>2</b>	<b>3</b>
<b>Dairy ice-cream</b>	Dairy ice-cream	-
<b>Ice-cream</b>	Ice-cream	-
<b>Frozen dairy dessert</b>	Frozen dairy dessert	Frozen dairy confection/ Dairy gelato
	Low fat frozen dairy dessert	Low fat frozen dairy confection/ Low fat frozen dairy gelato
	Fat free frozen dairy dessert	Fat free frozen dairy confection/ Fat free frozen dairy gelato

Class 1	Class designation 2	Alternate class designation 3
<b>Frozen dessert</b>	Frozen dessert	Frozen confection/ Gelato
	Low fat frozen dessert	Low fat frozen confection/ Low fat frozen gelato
	Fat free frozen dessert	Fat free frozen confection/ Fat free frozen gelato
<b>Frozen yoghurt</b>	Frozen yoghurt	Full cream frozen yoghurt/ Full fat frozen yoghurt
	Low fat frozen yoghurt	-
	Fat free frozen yoghurt	Skim(med) frozen yoghurt
<b>Frozen yoghurt and Dairy ice-cream blend</b>	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
<b>Frozen yoghurt and Ice-cream blend</b>	Frozen yoghurt and ice-cream blend	Frozen yoghurt and ice-cream medley/ Yoghurt and ice-cream blend/ Yoghurt and ice-cream medley
<b>Soft serve</b>	Soft serve	-
<b>Frozen fruit sorbet</b>	Frozen fruit sorbet	Fruit sorbet
<b>Frozen fruit ice</b>	Frozen fruit ice	Fruit ice/ Fruit ice confection
<b>Flavoured ice</b>	Flavoured ice	Flavoured ice confection

- Not specified

(2) In the case of the classes Frozen fruit sorbet and Frozen fruit ice --

- (a) the word "fruit" in the class designation shall be substituted by the name(s) of the specific fruit(s) used in the case where one or two kinds of fruit have been used; or
- (b) the word "mixed" only may precede the word "fruit" in the class designation in the case where three or more kinds of fruit have been used: Provided that the names of --
  - (i) all the fruit species used shall be indicated in descending order of appearance in close proximity to the class designation concerned in letters of the same size and at least 2 mm in height; or
  - (ii) only the first two main fruit species shall be indicated in descending order of appearance, followed by the expression "and other fruit", in close proximity to the class designation concerned in letters of the same size of at least 2 mm; or
  - (iii) only the first two (or more) fruit species lending the predominant flavour and aroma to the product concerned, followed by the expression "and other fruit", shall be indicated in close proximity to the class designation concerned in letters of the same size of at least 2 mm: Provided further that --
    - (aa) a complete ingredients list shall appear on the container; and
    - (bb) the emphasised, predominant fruit species shall be subject to 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).

(3) In the case of the class Flavoured Ice, the word "flavoured" in the class designation shall be preceded by the name(s) of the specific fruit(s) and/or flavouring(s) used.

(4) In the case of instant mix products (powder) which are intended to be prepared either at home, or on the premises (e.g. at ice-cream parlours/outlets/emporiums) for the purpose of dispensing it from a soft serve dispensing machine, by the addition of for example full cream milk, full cream yoghurt, butter milk, water, etc., the classification of the product concerned shall be based on --

- (a) 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 oil, coconut kernel oil, etc.) in

the instant mix and the full cream milk, full cream yoghurt, butter milk, etc. it is intended to be mixed with.]; and

- (b) 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 --
  - (i) inclusions shall not be taken into account when determining the fat content and the total solids; and
  - (ii) the manufacturer, packer or importer shall on request provide the Executive Officer or the inspector with the necessary information/composition (e.g. analysis report, etc.) of the instant mix when prepared in accordance with the mixing instructions.

(5) An altered word sequence of the class designation is permissible: Provided that the altered word sequence shall not constitute a misrepresentation, or not directly or by implication creates or may create a misleading impression regarding the quality, nature, origin or composition of the Edible Ice product concerned.

#### **Additions to the class designation**

16. (1) When a flavouring has been added to Edible Ices in order to render a distinctive flavour thereto, the applicable class designation or alternate 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.

(2) When lactic acid and yoghurt flavouring, instead of 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 alternate class designation shall either be preceded by the expression "Yoghurt flavoured" or followed by the expression "with yoghurt flavour" or "with yoghurt flavouring".

(3) When a foodstuff has been added to an Edible Ice product --

- (a) the applicable 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
- (b) the applicable 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
- (c) 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.

(4) When at least 2% (m/m) cocoa powder has been added to an Edible Ice product in order to render a distinctive chocolate flavour and taste thereto, the applicable class designation shall either be preceded by the expression "chocolate", or be followed by the expression "with chocolate": 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), have been complied with.

(5) When 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 shall either be preceded by the expression "vanilla", or be followed by the expression "with vanilla".

(6) When the classes Ice-cream and Frozen dessert contain no butter fat or milk solids --

- (a) the expression "non-dairy", "dairy-free", or wording having a similar meaning, may precede the applicable class designation; or

- (b) the expression "non-dairy", "dairy-free", or wording having a similar meaning, may precede the applicable class designation when the source of the edible ice is indicated as part of the applicable class: Provided that the applicable class designation and additions of the class designation does not mislead or cause misrepresentation.
- (7) The expression "pasteurised" may form part of the class designation in the case where --
  - (a) Frozen yoghurt has been pasteurised after fermentation; and
  - (b) blends of yoghurt and either Dairy ice-cream mix or Ice-cream mix has been pasteurised.
- (8) When a multipack comprises of different variants of the same class of Edible Ice, the expression "assorted", or any other word having a similar meaning, may precede the applicable class designation: Provided that the names of the various kinds and/or flavours shall appear in close proximity to the class designation in a letter size not less than 50% of the size of the class designation.
- (9) The claim "lactose free", or indications with a similar meaning, may form part of the class designation and/or be indicated on its own in the case where Edible Ice products meet the requirements for this claim as prescribed by the regulations published under the Foodstuffs, Cosmetics & Disinfectants Act, 1972 (Act No. 54 of 1972).

***Additional particulars on the main panel***

17. The expression "contains no live cultures", "contains no live micro-organisms", or wording having a similar meaning, shall be indicated in close proximity to the class designation in the case where --
- (a) Frozen yoghurt has been pasteurised after fermentation; and
  - (b) blends of yoghurt and either Dairy ice-cream mix or Ice-cream mix have been pasteurised.
18. In a case of an edible ice of the classes Ice-cream and Frozen dessert containing no butter fat or milk solids --
- (a) the expression "made with (name of the vegetable fat)" sourced from, may immediately follow the applicable class designation; and/or
  - (b) the expression "non-dairy", "dairy-free", or wording having a similar meaning, may be indicated on its own away from the class designation.

***Additional particulars on the container***

19. Clear mixing instructions shall be indicated on every container containing an instant mix (powder) Edible Ice product intended for mixing either at home, or on the premises where it will be dispensed from a soft serve dispensing machine.

***Indicating the name and address***

20. The name and address of the manufacturer, packer, importer, seller or entity on whose behalf the Edible Ices have been packed shall be indicated on every container: Provided that in the case where --
- (a) it is not possible to indicate the physical address, a postal address with a telephone number may be used instead; and
  - (b) imported Edible Ice products indicate the address of the foreign manufacturer or packer only, a South African address for the importer, seller or entity on whose behalf the Edible Ices have been packed shall in addition be indicated on each container.

***Indicating the country of origin***

21. (1) The country of origin shall be indicated as follows on every container of Edible Ice:

- (a) "Product of (name of country)" if all the main ingredients, processing and labour used to make the product are from one specific country; or
- (b) "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.

(2) The expression "Packed in (name of country)" may be used in addition to the requirements of sub-regulation (1).

(3) The name(s) of the country(ies) indicated in terms of sub-regulations (1) and (2) may not be abbreviated.

***Indicating the date marking or batch code or batch number***

22. (1) Each container containing an Edible Ice product shall be clearly marked with the date marking or batch code or batch number in such a way that the specific batch is easily identifiable and traceable.

- (2) (a) When a date marking appears on a container --
  - (i) it shall be preceded by appropriate wording "best before" or "best quality before" and/or "use by", and/or "expiration date", depending on the nature of the Edible Ice product concerned;
  - (ii) abbreviations of the preceding wording shall not be allowed, except in the case of "best before" where the abbreviation "BB" may be used;
  - (iii) the date sequence shall be "day-month-year" (i.e. "dd/mm/yyyy") when numbers only are used: Provided that in the case of imported products where an altered date sequence is used, the month shall be indicated in letters, either written out in full or abbreviated, and the year shall be written out in full; and
  - (iv) it shall not be removed or altered by any person.
- (b) When an Edible Ice product is packed in an outer container, which will during normal usage be discarded by the consumer, the date marking shall, if indicated, appear on each individual container that will be retained by the consumer until consumption.

***Restricted particulars on containers and outer containers***

- 23. (1) (a) No class designation other than the applicable class designation shall be marked on a container or outer container.
- (b) No word or expression which so nearly resembles the class designation of an Edible Ice product that it could be misleading with regard to the composition shall be marked on a container or outer container.
- (2) (a) Depictions or illustrations of the specific fruit(s) added to or used in the manufacturing of Edible Ices shall only be allowed on a container or outer container if the Edible Ice product concerned has a total fruit content of at least 6% (m/m) or more fruit: Provided that --
  - (i) in the case of the classes Frozen fruit sorbet and Frozen fruit ice consisting of two or more kinds of fruit, a depiction or pictorial representation of only those fruit species imparting the predominant flavour and aroma to the product concerned, shall, subject to the provisions of regulation 15(2), not be regarded as constituting any misrepresentation; and
  - (ii) 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.



- (b) Depictions or illustrations of ingredient(s) other than those referred to in paragraph (a) above used to emphasise the presence of the ingredient(s) concerned on a container 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 Disinfects 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 or outer container.
- (4) No claim regarding the absence of any substance that does not normally occur in Edible Ices shall be marked on a container 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).
- (5) 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 a container 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 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).
- (6) (a) The use of variant names which include any reference to a foodstuff, either directly or by implication, and which have been in use or allowed for on Edible Ices prior to 8 February 2013 (i.e. the date of publication of the first Edible Ices regulations in the Government Gazette) are permissible on a container or outer container, even though the reference to such foodstuff may in some instances consist of a flavouring only (e.g. 'Vanilla', 'Rum & Raisin', etc.): Provided 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.
- (b) The use of variant names other than those referred to in paragraph (a) above on a container or outer container which include any reference to a foodstuff, either directly or by implication, shall be --
- (i) subject to 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), if the actual foodstuff is present in the Edible Ices product concerned;
  - (ii) subject to the provisions of sub-regulation 16(4) if cocoa powder has been added;
  - (iii) subject to the provisions of sub-regulation 16(5) if vanilla has been added; or



- (iv) followed by the word 'flavoured' in letters of the same size, type, colour and font if the reference to such foodstuff consists of a flavouring only.
- (7) The provisions of this regulation shall also apply to particulars that are marked on –
- (a) a Soft serve dispensing machine;
  - (b) the container or the display freezer unit in the case of Edible Ices, excluding the class Soft serve, sold in single serve portions;
  - (c) 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.

## PART V SAMPLING AND ANALYSIS

### Sampling

24. (1) (a) For the purpose of inspection for quality control an inspector shall take such samples of a product, material, substance or other article in question as he or she may deem necessary.
- (b) (i) Samples of Edible Ices shall be obtained directly from the factory and in the case of imported products at the port of entry or warehouse where the products will be kept/ stored prior to distribution.
- (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 -18 °C at any time.

### Analysis

25. (1) The preparation of the sample shall be done in accordance with the procedure set out in the "AOAC Official Method 969.20 -1969, Ice Cream and Frozen Desserts – Preparation of Test Portion Procedure" (Official Methods of Analysis of AOAC International, 21st Edition, 2019), or any other international recognised and acceptable reference methods and procedures.

- (2) The fat content and total solids content shall be determined in accordance with the methods set out in Table 2 below: Provided that inclusions shall not be taken into account:

**TABLE 2  
METHODS OF ANALYSIS**

Nature of determination	Method description	Method source
1	2	3
Fat content	"Milk - determination of the fat content - Röse Gottlieb – Gravi-metric method (reference method)"	International Dairy Federation, <b>IDF 1C: 1987</b>
	"Dried milk, dried whey, dried buttermilk and dried butter serum - determination of the fat content – Röse Gottlieb - (reference method)"	International Dairy Federation, <b>IDF 9C: 1987</b>

Nature of determination	Method description	Method source
1	2	3
	"Milk based edible ices and ice mixes – Determination of fat content -Gravimetric method (reference method)"	International Organization for Standardization, <b>ISO 7328: 2008/</b> International Dairy Federation, <b>IDF 116: 2008</b>
	"Skimmed milk, whey and buttermilk - Determination of the fat content (reference method)"	International Dairy Federation, <b>IDF 22B: 1987</b>
	"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>
	"Milk - determination of the fat content – Gerber butyrometers"	International Organization for Standardization, <b>ISO 488: 2008/</b> International Dairy Federation, <b>IDF 105: 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> International Dairy Federation, <b>IDF 70: 2004</b>
	"Milk, Cream and Evaporated Milk – determination of total solids content (reference method)"	International Organization for Standardization, <b>ISO 6731: 2010/</b> International Dairy Federation, <b>IDF 21: 2010</b>

(3) Notwithstanding sub-regulation (2) above, any other method which is accepted and approved by AOAC International, the International Organization for Standardization (ISO), the International Dairy Federation (IDF) or the CODEX Alimentarius may be used: Provided that --

- (a) the method concerned has been validated;
- (b) the laboratory concerned employing this method has been accredited (e.g. by SANAS); and
- (c) the laboratory concerned conducts proficiency testing/ inter-laboratory comparisons.

#### **Determination of overrun**

26. 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: Provided that inclusions shall not be taken into account:

#### **A. Calculation by volume:**

The overrun is calculated by using the following formula:

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

**B. Use of an overrun cup and overrun table:**

- (1) The overrun is determined as follows by means of an overrun cup:
- (a) Place a clean, dry overrun cup on a scale and adjust the scale to zero.
  - (b) 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.
  - (c) Weigh the overrun cup and its contents and record the mass.
  - (d) Clean the overrun cup thoroughly and dry it.
  - (e) 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.
  - (f) 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.
  - (g) Level the sample in the overrun cup off with the surface of the cup.
  - (h) Weigh the overrun cup and its contents and record the mass.
  - (i) Calculate the overrun by using the following formula:
 
$$\% \text{ Overrun} = \frac{\text{Mass of the unfrozen mix/product}}{\text{Mass of the aerated finished product}} - 1 \times \frac{100}{1}$$
  - (j) 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

## PART VI OFFENCES AND PENALTIES

### *Offences and penalties*

27. 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.

## PART VII COMMENCEMENT AND REPEAL

### *Commencement*

28. These regulations shall come into operation 12 months after the date of publication.

### *Repeal*

29. Regulations published under Government Notice No. R.78 of 08 February 2013 are hereby repealed from the date of commencement of these regulations.

## ANNEXURES

### ANNEXURE A

#### SUMMARY OF THE COMPOSITIONAL STANDARDS FOR EDIBLE ICES, EXCLUDING THE CLASSES FROZEN FRUIT SORBET, FROZEN FRUIT ICE AND FLAVOURED ICE

Class	Class designation	Fat content* (%)(m/m)	Total solids (%)(m/m)
1	2	3	4
Dairy Ice-cream	Dairy Ice-cream	$\geq 7$	$\geq 33$
Ice-cream	Ice-cream	$\geq 7$	$\geq 33$
Frozen Dairy Dessert	Frozen Dairy Dessert	$> 3 < 7$	$\geq 25$
	Low Fat Frozen Dairy Dessert	$> 0.5 \leq 3$	$\geq 25$
	Fat Free Frozen Dairy Dessert	$\leq 0.5$	$\geq 25$
Frozen Dessert	Frozen Dessert	$> 3 < 7$	$\geq 25$
	Low Fat Frozen Dessert	$> 0.5 \leq 3$	$\geq 25$
	Fat Free Frozen Dessert	$\leq 0.5$	$\geq 25$
Frozen Yoghurt	Frozen Yoghurt	$> 3$	$\geq 33$
	Low Fat Frozen Yoghurt	$> 0.5 \leq 3$	$\geq 33$
	Fat Free Frozen Yoghurt	$\leq 0.5$	$\geq 33$
Frozen Yoghurt and Dairy Ice-cream Blend	Frozen Yoghurt and Dairy Ice-cream Blend	$\geq 7$	$\geq 33$
Frozen Yoghurt and Ice-cream Blend	Frozen Yoghurt and Ice-cream Blend	$\geq 7$	$\geq 33$
Soft Serve	Soft Serve	$\geq 3$	$\geq 25$

\* "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.

## ANNEXURE B

SUMMARY OF THE COMPOSITIONAL STANDARDS FOR THE CLASSES FROZEN FRUIT SORBET,  
FROZEN FRUIT ICE AND FLAVOURED ICE

Class	Class designation	Fruit content (%) (m/m)	Fat content* (%) (m/m)
1	2	3	4
<b>Frozen Fruit Sorbet</b>	Frozen Fruit Sorbet	$\geq 15$	$\leq 2.9$
<b>Frozen Fruit Ice</b>	Frozen Fruit Ice	$\geq 6$	-
<b>Flavoured Ice</b>	Flavoured Ice	$< 6$	-

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

- Denotes no specification – refer to individual standard