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# **PACKAGING DRAFT R3337 FOOD LABELLING REGULATIONS**

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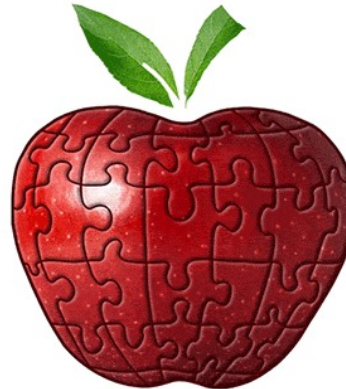


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## History of Food Labelling Regulations

- FCD Act – Section 15(1)(h), (k) and 15(2) - regulating powers
- Purpose of Regulations under FCD Act
  - Address deception of consumers and allow consumers to make informed choices about the food they consume
  - Generically promote health of South Africans
- History of FCD labelling regulations
  - Pre-1993 - Basic regulations under FCD Act
  - 1993 to 2010 – R2034 - Health claims, nutritional information – many gaps – **Effective date 1 May 1995**
  - 2010/2012 - R146 – In depth limitations on health claims etc
  - 2014 – R429 – health claims – prohibit certain TM's



## **R3337– Labelling and Packaging Impact**

- Prohibited Trade Marks and Trade Names
- Front of Pack Health Warnings (FOPL)
  - “Artificial Sweeteners” and Sugar
  - Salt and Fat
- Letter sizes and colour contrasts
- Permitted and Prohibited Claims – Tables
- Marketing Restrictions on “Unhealthy” Foods



## **Commencement (Reg 77):**

(1) These regulations enter in to force **24 months after the date of publication** thereof.

(2) Regulation **9(2) and (3)** enters into force **on the date of publication** of these Regulations.

***Prohibition on health claims and nutrients in product names and branding!***

(3) Regulations 49 to 73 enters into force 12 months after the date of publication of these Regulations.

***Claims, Nutrient Profiling, etc***



## Commencement (Reg 76):

(4) Regulations 8, **51 and 52** enters into force **6 months** after the date of publication of these Regulations.

**Date marking, FOPL and Marketing Restrictions!**

### Realistic timelines?

**"Immediate"** - brands may be in place for some years, packaging redesign, use up existing packaging, loss of goodwill

**"Date Marking"** - 6 months is not long enough as some product have shelf life of 2 years or longer

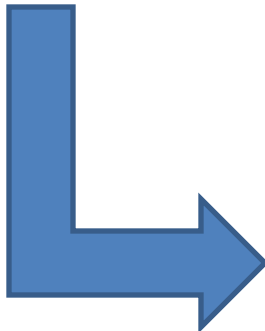
**"12 months"** - many SKU's not enough resources/lab capacity for this

- **Open to legal challenge unless these timelines adjusted.**



## FOPL's

- “(2) Any foodstuff required to bear any FOPL logo, as described in Annexure 10, must: -
- (a) display such logos on the front of the pack/main panel of the package;
  - (b) shall cover 25% of the front of pack package - Annexure 1; and
  - (c) the size shall be calculated using the following formula based on the shape of the package:
- ...”



Formulas for calculation of principal display panel	
Rectangle	Height x Width of largest side
Cylindrical shape	40% of height x circumference
Special Cylindrical shape	40% of Height x circumference OR Area of the Lid (whichever is greatest)
Tapered Tube	40% of the height x average of the top and bottom circumference
Other Shapes	40% of total surface



## FOPL's continued...

“(e) the FOPL logos on the front of the pack must:

- (i) correspond to those nutrients which exceed the FOPL cut-offs
- (iii) be prominently visible to a consumer when product is displayed and may not be obscured, removed or damaged;
- (iv) placed on the front of the pack/main panel of the container's label and anchored to the top right-hand corner of the front of the package in the configurations and to the specifications outlined in Annexure 10;
- (v) together with the white background prescribed in Annexure 10, cover 25 per cent of the front of the pack as calculated in terms of paragraph (d).
- (vi) be integrated into the packaging of the foodstuff insofar as practicable and the use of stickers must be permitted where the size of the container or existing label cannot accommodate the size of the label; and
- (vii) the order of the logos shall use the exclamation mark as the first, anchoring logo and be followed by sugar, saturated fat, sodium and then where applicable, artificial sweeteners.”

....





## FOPL's



Exclamation mark triangle



Symbol for foodstuffs that exceed the threshold set for total sugar.



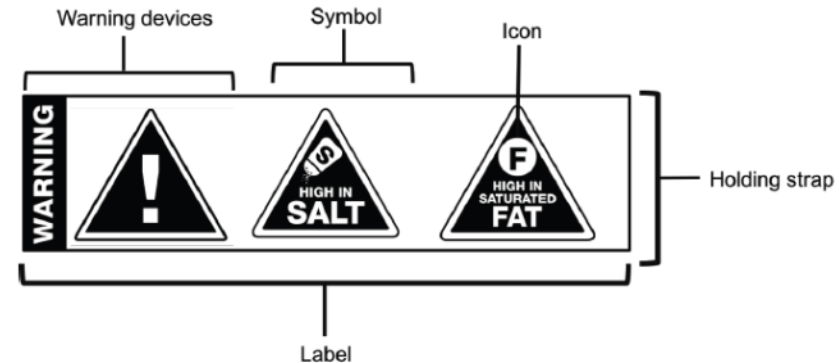
Symbol for foodstuffs that exceed the threshold set for total saturated fat.



Symbol for foodstuffs that exceed the threshold set for total sodium.



Symbol for foodstuffs that contain artificial sweetener



### Size of the Logos

- The FOPL shall be placed on the **top right-hand side of the front of the package**.
- The front of the package shall be calculated utilising the formulas for calculating the principal display panel outlined in table 3.1
- Irrespective of the size of the package, **the FOPL shall not have a height smaller than 1.5 cm.**
- The FOPL shall be placed at the top right-hand corner of the front-of-pack and shall **not be obscured, distorted.**
- The FOPL shall cover no less than the prescribed percentage of the front of package as follows:
  - An **FOPL bearing one symbol** with the warning triangle shall take up **no less than 10% of the front of the package.**
  - An **FOPL bearing two symbols** with the warning triangle shall take **up no less than 15% of the front of the package.**
  - An **FOPL bearing three symbols** with the warning triangle shall take up **no less than 20% of the front of the package.**
  - The **FOPL bearing four symbols** shall cover **no less than 25% of the front of the package.**



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## FOPL's & how they will appear

Horizontal Configuration



The exclamation triangle must appear on the left side of the holding strap. Additional logos must appear next to the exclamation triangle from left to right as detailed below. The order of additional logos is not prescribed. Figures below demonstrate the configurations for two, three and four logos.

Vertical Configuration



Clustered Configuration



Manufacturers may use an alternative configuration of the FOPL should the package not allow for the horizontal line. Manufacturers may opt for a vertical configuration on the right-hand side of the front-of-pack configured. Alternatively, a manufacturer may utilise the clustered configuration.



## General (Reg 2):

- 2. (1) A **person** may not **manufacture**, import, sell, **donate** or offer for sale any pre-packaged foodstuff, unless the foodstuff container, or the bulk stock from which it is sold or taken, is **labelled in accordance with these Regulations**.
- (2) A person contemplated in subregulation (1) must provide **accurate information regarding the characteristics, origin, composition, quality, nutritive value, nature or other properties** of a foodstuff and the time and place of its manufacture to the consumer.



## Presentation (Reg 3):

- English, optionally **second local language**
  - **Cannot** reduce letter size to accommodate further languages e.g. for export markets
  - **Cannot** leave out second local language for a foreign one
- Text must be **indelible, clearly visible and easily legible** with a **significant contrast** between font colour and **background colour**



## Presentation (Reg 3):

- colours not **“dominate or overwhelm”** nor used in such a way that any information, warning or **Front of Pack Label warning logos**, when applicable, become poorly visible....
- (ii) **white lettering** on any background colour **except black shall be prohibited**.
  - They say they **mean for warnings** – such as FOPL – BUT that’s **not what the regulation says !!**



## **Letter sizes (Reg 4):**

- Name of foodstuff - vertical height of font size is **not less than 4 mm**, bottle cap 0.9 mm
- the **information required to appear** ...not name, warning and mandatory statements where applicable in terms of these Regulations, must be in letters of a font size of which the x-height according to Annexure 5, is not less than **1.2 mm vertical height**;
- Packs below 12000 m<sup>2</sup> is **minimum 0.9 mm**



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## LETTER SIZES: DEFINITION OF x-HEIGHT

x-HEIGHT



### Interpretation Key

1	Ascender line
2	Cap line
3	Mean line
4	Baseline
5	Descender line
6	<b>x-height</b>
7	<b>Vertical Font height/font size</b>



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## Letter sizes (Reg 4):

- words which **qualify name of foodstuffs**, or are part of the description or essential part thereof, must, where the **name does not reflect a complete description**
- (i) be reflected in the **immediate proximity** to the name;
- (ii) be in **prominent, distinctive letters of the same font, colour and prominence**; and
- (iii) be letters of the **same font size** of which the x-height according to Annexure 5, is **not less than 1.2 mm vertical height**:  
Provided that the **listing of ingredients** and **proportions** of ingredients is in a **letter type of uniform size, colour, font and prominence**





## **Country of Origin (Reg 6):**

- Country of Origin does not seem contentious except 6(2) states:

“(2) (a) The use of a **national flag** is only permitted to indicate the country of origin when it is **accompanied by the wording** contemplated in subregulation (1).

(b) In the case of where the wording **“Proudly South African”** is used the South African Flag may be used, provided the **product complies** with the **criteria for “Products of (name of country)”**.



## **Batch Identification (Reg 7):**

- Batch marking is required
- Traceability requirements would need this anyway



## **Date Marking (Reg 8):**

- This could be a workshop on its own!!
- **No more “Sell By” date, No more “BB”** - full wording
- (2) Date markings must be introduced by the words **“Use by date <insert date>”** or **“Best Quality Before Date <insert date>”** as applicable, or in case of where (sub) Regulation 11 applies **“Date of Manufacture <insert date>”** or the **“Date of Packaging <insert date>”**. – Annexure 9



## **Date Marking (Reg 8):**

(8) The date marking must, irrespective of quality or safety, declare the manufacturing day, month and year. (Contradictory??)

**NB Addition: Food business operators receiving bulk food product and dividing into smaller units for retail and repackaging it = responsible for ensuring that the labelling information required in terms of these regulations, relating to the foodstuff, including its shelf-life, is correct.**



## **Date Marking - GUIDELINES**

The date shall be introduced by the words:

- “Use-by <insert date>” or “Expiration Date <insert date>” or “Best before <insert date>” or “Best Quality Before <insert date>” as applicable where the day is indicated; or -----**NO BB**
- The **year** to be denoted by **2 or 4 digits**, and the **month** shall be declared by **letters** or **characters** or **numbers**. Where only numbers are used to declare the date or where the year is expressed as only two digits, the competent authority should determine whether to require the **sequence of the day, month, year**, be given by appropriate **abbreviations accompanying the date mark** (e.g., **DD/MM/YYYY or YYYY/DD/MM**).



## Bulk Stock (Reg 24)

Foodstuff which is ordinarily sold in retail as individual units but in wholesale as multiple units per container, and label information becomes obscured and inaccessible to consumers as a result of the external packaging of the container in which it is transported and offered for sale, irrespective of whether clear shrink wrap is used or not, the following minimum labelling information must appear on the bulk or multi pack:

- (a) Name of the product;
- (b) name and address of the manufacturer;
- (c) special storage conditions;
- (d) allergen information;
- (e) batch code; and
- (f) an appropriate date marking



## **Bulk Stock (Reg 24)**

**(4) Bulk size cheese and deli-type processed meat loaves shall have a manufacturing date and a re-packaging date when sliced into smaller units on both the bulk size unit as well as the re-packaged units.**



## **Small packages (Reg 25)**

- NB!! NB!!
- Small packages are not exempt from FOPL logo!

Subject to Regulation 24(1) (which relates to bulk stock) an **FOPL logo (if applicable) must be present on the label unless sold from a bulk stock container.**





## **NB: Addition regarding Foodstuff vending machines (Reg 27)**

**(2) Pre-packaged foodstuffs which are required to bear a mandatory Front-of-pack label (FOPL) shall be packed in the vending machine in such a way that clearly display the foodstuff with the main panel on which the FOPL logos are clearly visible from the outside of the machine.**

**Very interesting change...**

**What about soft drink vending machines that are not transparent?**



## Annexure 2: Format for new Mandatory Nutritional Information Declaration

### 1. Where NO CLAIM is made (as packed/ready-to-consume)

#### (TYPICAL) NUTRITIONAL INFORMATION/FACTS

Quantified single portion/serving/portion size expressed in grams or millilitres, whatever is appropriate, and a household measurement unless the single portion/serving/portion is already quantified in the fourth column of the Table below:

	Unit of measurement	Per 100 g/ml	Per single portion/serving/Portion	NRV * per serving/portion (optional)
Energy	kJ			
Protein	G			
Total carbohydrates	G			
of which carbohydrates#	g			
of which total sugars	g			
glycaemic polyols##	g			
Dietary fibre	g			
Total fat###of which:	G			
Saturated fatty acids###	g			
Total Sodium/salt	mg/g			

\* Declaration of the Nutrient reference values (NRVs) column for individuals from the beginning of 37 months and older (see Annexure 3) expressed per single portion/serving/portion is optional.

#Glycaemic/Available carbohydrates calculated by difference

## Indicate if specific polyol(s) that contribute to total energy value

### Total fat and Saturated fatty acids obtained from Food Composition tables or calculated

Footnotes: Place the statements required by regulation 46(4) as appropriate as footnotes below the Table.

**NB to note: No longer required to say “typical nutritional information” as was required in R146. May choose not to use the word “typical” and may simply say “nutritional information or nutritional facts. ALSO – can use the word portion or portion size as opposed to being limited to “serving”. Single serving declaration does not need to be expressly referenced underneath the table heading and can simply appear in the heading of Column 3.**

\* Declaration of the Nutrient reference values (NRVs) column for individuals from the beginning of 37 months and older (see Annexure 3) expressed per single portion/serving/portion is optional.

#Available carbohydrates calculated by difference

## Indicate if specific polyol(s) that contribute to total energy value

### Total fat and Saturated fatty acids obtained from Food Composition tables or calculated

Footnotes: Place the statements required by regulation 46(4) as appropriate as footnotes below the Table.



## 2. Where a CLAIM is made (as packed/ready-to-consume)

### (TYPICAL) NUTRITIONAL INFORMATION/FACTS

Quantified single portion/serving/portion size expressed in grams or millilitres, whatever is appropriate, and a household measurement unless the single portion/serving/portion is already quantified in the fourth column of the Table below:

	Unit of measurement	Per 100 g/ml	Per single portion/serving/portion	NRV * per serving (optional)
Energy	kJ			
Protein	g			
Total carbohydrates	g			
of which carbohydrates#	g			
of which total sugars	g			
glycaemic	g			
polyols##	g			
Dietary fibre	mg			
Prebiotics				
Total fat###	g			
of which:				
Saturated fatty acids###	g			
Trans fatty acids	g			
Monounsaturated fatty acids	g			
Polyunsaturated fatty acids:	mg			
of which Omega-3 fatty acids:	mg			
of which DHA	mg			
EPA				
DPA				
ALA				

	Unit of measurement	Per 100 g/ml	Per single portion/serving/portion	NRV * per serving (optional)
<b>Total Sodium/salt</b>	<b>mg/g</b>			
Any other nutrient or foodstuffs component to be declared in accordance with these Regulations shall be declared:	Indicated in milligrams (mg), micrograms (mcg/ µg), or IU (International Unit), as appropriate according to Annexure 3			
• in the order: vitamins, minerals, carotenoids and other bioactive substances, et cetera, each group in alphabetical order.				
• GI		-	(GI is indicated per single portion/serving/portion only, not per 100 g)	-
• GL		-		-

\*Declaration of the NRVs column for individuals from the beginning of 37 months and older (see Annexure 3) expressed per single portion/serving is optional.

#Glycaemic carbohydrates chemically analysed when any carbohydrate-related claim is made

## Indicate if specific polyol(s) contribute to total energy value

### Total fat and saturated fatty acids values obtained from chemical analyses

Footnotes: Place the statements required by regulation 46(4) as appropriate as footnotes below the Table.



## Questions?

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