

FOOD CONTROL ACT 1993
(Act No. 11 of 1993)

LABELLING OF FOOD ADDITIVES REGULATIONS, 2002
(Published on 6th December, 2002)

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IN EXERCISE of the powers conferred on the Minister of Health by section 13(1) of the Food Control Act, and after consultation with the National Food Control Board, the following Regulations are hereby made-

PART I — Preliminary

Citation and
commencement

1. These Regulations may be cited as the Labelling of Food Additives Regulations, 2002, and shall come into effect on such day as may be specified by the Minister, by order published in the Gazette.

2. In these Regulations, unless the context otherwise requires —
- “Act” means the Food Control Act;
- “container” means any form of packaging of food additives for sale as a single item, whether by completely or partially enclosing the food additives, and includes wrappers;
- “contaminant” means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in the crop husbandry, animal husbandry and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transportation or holding of such food or as a result of environmental contamination;
- “food additive” means any substance not normally consumed as food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food is for a technological, including organoleptic, purpose in the manufacture, processing, preparation, treatment, packing, packaging, transportation or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or to its by-products becoming a component of or otherwise affecting the characteristics of such foods, but does not include contaminants, or substances added to food for maintaining or improving nutritional qualities;
- “ingredient” means any substance, excluding a food additive, used in the manufacture or preparation of a food and present in the final product;
- “label” includes any tag, brand, mark, pictorial or other descriptive matter, written, painted, stencilled, marked, embossed or impressed on, or attached to, or included in, or belonging to, or accompanying any food, or any package containing food;
- “lot” means the definitive quality of a commodity produced essentially under the same conditions;
- “processing aid” means a substance or material not including apparatus or utensils and not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but inevitable presence of residues or derivatives in the final product; and
- “sale by retail” means any sale to a person buying otherwise than for the purpose of resale but does not include a sale to caterers for the purpose of their catering business or a sale to manufacturers for the purpose of their manufacturing business.

3. (1) These Regulations apply to the labelling of food additives sold as such whether by retail or other than by retail, including sales to caterers and food manufacturers for the purposes of their business.

Application

(2) These Regulations shall also apply to food processing aids and any reference to food additives shall include food processing aids.

4. (1) Food additives shall not be described or presented on any label or in a labelling manner which is false, misleading or is likely to create an erroneous impression regarding their character in any respect.

General
principles

(2) Food additives shall not be described or presented on a label or in any labelling by words, pictorial or other devices which refer to or are suggestive, either directly or indirectly, of any product with which such food additives might be confused, or in such a manner as to lead the consumer to suppose that the food additive is connected with or derived from such other product, but the term "x flavour" may be used to describe a flavour which is not derived from, but reproduces the flavour "x".

PART II — *Information on label of prepackaged food additives*

5. Except to the extent otherwise provided in other regulations published under the Act, the following shall appear on the label of prepackaged food additives as applicable to the food additive being labelled -

- (a) the name of the food additive;
- (b) the list of ingredients in the food additive;
- (c) the net contents;
- (d) the name and address of the manufacturer, packer, distributor, importer, exporter or supplier thereof;
- (e) the country of origin of the food additive;
- (f) the lot identification;
- (g) date marking and storage instructions; and
- (h) instructions for the use thereof.

6. (1) The name of each food additive present in any food shall be provided indicating the true nature of the food additive, and shall be specific and not generic in accordance with these Regulations.

(2) Where a name has been established for a food additive in regulations published under the Act, that name shall be used in relation to the food additive.

(3) In the absence of a specific name for the food additive, either a common or usual name, existing by common usage as an appropriate descriptive term which is not misleading to the consumer, shall be used in relation to the food additive.

(4) Where two or more food additives are present, their names shall be listed in order of the proportion by mass which each food additive bears to the total contents of the container, with the food additive present in the greatest proportion by mass being at the top of the list.

(5) In the case of mixtures of flavouring, the name of each flavouring present in the mixture need not be given, but the generic expression "flavour" or "flavouring" may be used together with a true indication of the nature of the flavour.

(6) Except in relation to flavour modifiers, but inclusive of herbs and spices, the generic expression "flavour" or "flavouring" may be qualified by the words "natural", "nature identical" or "artificial".

7. Ingredients of food additives shall be declared in the list of ingredients in descending order of their proportion by weight to the total contents of the container, with the ingredients contained in the greatest proportion appearing at the top of the list.

Information
on label

Name of food
additive

List of
ingredients

8. The net contents of food additives shall be declared in the metric system or SI units and shall be in the following manner — (a) for liquid additives, by volume or mass; (b) for solid food additives, other than those sold in tablet form, by mass; (c) for semi-solid or viscous food additives, either by mass or volume; and (d) for food additives sold in tablet form, by mass together with the number of tablets in the package.	Net contents of food additives
9. The name and address of the manufacturer, packer, distributor, importer, exporter or supplier of the food additive shall be declared on the label.	Name and address of manufacturer, etc. Country of origin
10. (1) The country of origin of a food additive shall be declared on the label. (2) Where a food additive undergoes processing in a second country which changes it in nature, the country in which the processing is performed shall be regarded as the country of origin for the purposes of labelling, provided that — (a) at least 25% of the production costs of the food additive is represented by materials and labour performed in that country; and (b) the last process in the production or manufacture of the food additive is represented by materials and labour performed in that country.	Country of origin
11. Each container of food additives shall be embossed or otherwise permanently marked in code or in clear print to identify the producing factory and the lot of the food additives.	Lot identification
12. The labels of prepackaged food additives shall have a “best before”, “sell by” or “expiry” date marked on them in accordance with regulation 12 of the Labelling of Prepackaged Foods Regulations.	Date marking of food additives S.I. No. of 2002
13. (1) The words “for food use” or a statement substantially similar thereto shall appear in a prominent position on the label. (2) Adequate information shall be given about the manner in which a food additive is to be kept and is to be used in food.	Instructions on keeping and use

PART III — Presentation of mandatory information

14. (1) Statements required to appear on the label of prepackaged food additives by virtue of these Regulations or any other regulations, shall appear so in a clear and prominent manner such that they are readily legible to the consumer.	Presentation of information
(2) Information which is required to appear on the label of prepackaged food additives shall not be obscured by designs or by other written, printed or graphic matter and shall be on contrasting ground to that of the background.	
(3) The letters in the name of the food additive shall be in a size reasonably related to the most prominent printed matter on the label.	
(4) Where a container of food additives is covered with a wrapper, the wrapper shall carry the necessary information of the label on the container which shall be legible through the outer wrapper.	
(5) The name and net contents of a food additive shall appear on that portion of the label normally intended to be presented to the customer at the time of sale.	

Language

15. (1) The information required to appear on any label shall be in either English or Setswana.

(2) Where the language on the original label does not include English or Setswana, a supplementary label containing the mandatory information in English or Setswana shall be used instead of re-labelling.

(3) In the case of either re-labelling or a supplementary label the mandatory information provided shall fully and accurately reflect that of the original label.

Optional
labelling

16. Any information or pictorial device may be displayed on labelling provided that it is not in conflict with the requirements stated under regulation 5 and would not mislead or deceive the consumer in any way in respect of the food additive.

Exemptions

17. Notwithstanding anything contained in these Regulations, the Minister may, by notice in writing, exempt any person from compliance with any provisions thereof.

Offences and
penalties

18. (1) A person who contravenes the provisions of these Regulations commits an offence under the Act and is liable —

(a) for a first offence, to a fine of P1 000 and to imprisonment for 3 months, and where the offence is a continuing offence, to an additional fine of P500 and imprisonment for one month for each day on which the offence continues; and

(b) for a second offence or subsequent offence, to a fine of P5 000 and to imprisonment for 6 months, and where the offence is a continuing offence, to an additional fine of P2 000 and imprisonment for two months for each day on which the offence continues.

(2) On the conviction of any person for any offence under these Regulations, the court may, in addition to any other penalty which it may lawfully impose, cancel or suspend any licence issued to such person which is relevant to the offence committed.

MADE this 25th day of October, 2002.

J.J. PHUMAPHI,
Minister of Health.