

S. I. of 2005

**DRUG AND RELATED PRODUCTS (REGISTRATION,
ETC.) ACT 1996 (AS AMENDED)**

Food Additives Regulations 2005

Commencement:

In exercise of the powers conferred on the Governing Council of the National Agency for Food and Drug Administration and Control (NAFDAC) by section 8 of the Drug and Related Products (Registration, etc.) Act 1996, as amended, and of all the powers enabling it in that behalf, THE GOVERNING COUNCIL OF THE NATIONAL AGENCY FOR FOOD AND DRUG ADMINISTRATION AND CONTROL with the approval of the Honourable Minister of Health hereby makes the following Regulations:-

1. Label declaration for substances used as food additives.

No person shall manufacture, import, export, distribute, advertise, display for sale or sell any substance or mixture of substances for use as a food additive, unless the label carries a quantitative statement of the amount of each additive present, or carries a complete list of food additives present in descending order of their proportions, including directions for their use which, if followed, shall produce a food that shall not contain such additives in excess of the amount prescribed in the Codex standards for food additives.

2. Labelling of synthetic colour and mixture of colours in food, etc

(1) No person shall manufacture, import, export, distributes, advertise, display for sale or sell synthetic colour or a mixture of colours for use in food unless the label carries the:-

- (a) lot number of the mixture;
- (b) words “food grade colour”; and
- (c) common name of the individual colours (Synthetic or inorganic) in the mixture .

(2) (a) food additives with a shelf life not exceeding 8 months shall carry the date of minimum durability using words such as ‘will keep at least until..’;

(b) the words ‘for food use’ or a statement substantially similar thereto shall appear in a prominent position on the label.

(3) The net content shall be declared in the metric units and this declaration shall be made in the following manner:

- (a) for liquid food additives, by volume or weight;
- (b) for solid food additives, other than those sold in tablet form, by weight;

- (c) for semi-solid or viscous food additives, either by weight or volume;
 - (d) for food additives sold in tablet form, by weight together with the number of tablets in the package.
- (4) (a) the name and address of the manufacturer, packer, distributor, importer or vendor of the food additive shall be declared;
- (b) the country of origin of a food additive shall be declared if its omission is likely to mislead or deceive the consumer;
 - (c) when a food additive undergoes processing in a second country which changes its chemical or physical nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.
- (5) (a) any statement required to appear on the label of a food item shall be clear, prominent and readily legible to the consumer and such information shall not be obscured by designs or other written, printed or graphic matter and shall be on contrasting ground to that of the background;
- (b) 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;
 - (c) where the container is covered by a wrapper, the wrapper shall carry the necessary information or the label on the container shall be readily legible.
- (6) Any declaration required to be made under these Regulations shall be in English.
- (7) Adequate information shall be given about the manner in which the food additive is to be kept and is to be used.

3. Food additives not to be described falsely, etc.

Food additives shall not be described or presented on any label or in any labelling:

- (a) in a manner which is false, misleading or is likely to create an erroneous impression regarding its character in any respect;
- (b) by words, pictorials or other devices which refer to or are suggestive, either directly or indirectly of any other product with which such food additives might be confused, or in such a manner as to lead the purchaser or consumer to suppose that the food additive is connected with or derived from such other product.

4. Food additives to bear certain information.

(1) The name of each food additive which shall be given shall be specific and not generic and shall indicate the true nature of the food additive.

(2) Where a name has been established for a food additive in a codex list of additives, that name shall be used.

(3) In other cases, the common or usual name shall be listed or, where none exists, an appropriate descriptive name shall be used.

(4) If two or more food additives are present, their names shall be given in the form of a list and the list shall be in the order of the proportion by weight which each additive bears to the total contents of the container, the food additive present in the greatest proportion by weight being listed first.

(5) Where one or more of the food additives is subject to a quantitative limitation in a food covered by a codex standard, the quantity or proportion of that additive may be stated and if food ingredients are part of the preparation, they shall be declared in the list of ingredients in descending order of proportion.

(6) If two or more food additives in the same functional class are present in a product, satisfactory documented evidence of safety of the combination shall be provided to the Agency.

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

(8) The expression 'flavour' or 'flavouring' may be quantified by the words 'natural', 'nature-identical', 'artificial' or a combination of these words, as appropriate.

(9) This provision does not apply to flavour modifiers, but does apply to 'herbs' and 'spices' of which generic expressions may be used.

5. Processing aids and carry-over of food additives.

(1) For a food additive carried over into a food in significant quantity or in an amount sufficient to perform technological function in that food as a result of the use of raw materials or other ingredients in which the additive is shall be included in the lists of ingredients.

(2) For a food additive carried over into foods at a level less than that required to achieve technological function, processing aids are exempted from declaration in the list of ingredient.

6. Prohibition against sale of food containing non-permitted food additive.

(1) No person shall manufacture, import, export, distribute, advertise, display for sale or sell any food additives, except food additives set out in the prescribed standards and such food additive shall be incorporated in the food in a quantity within the limits prescribed for that food and food additive in the Codex standards.

(2) Where the limit prescribed for a food additive in the Codex standard is stated to be “good manufacturing practice”, the amount of the food additive added to a food in the manufacturing and processing shall not exceed the amount required to accomplish the purpose for which that additive is required to be added to that food.

7. Conditions for a request to add to or change food additive.

Any person who wishes to request for a food additive to be added to or a change to be made shall submit his request to the Agency in form, manner and content satisfactory to the Agency which shall include:-

- (a) a description of the food additive including its chemical name and the name under which it is proposed to be sold, method of its manufacture, chemical and physical properties, composition and specifications;
- (b) a statement of the amount of the food additive for use and the purpose for which it is proposed to be used, together with all directions, recommendations and suggestions for use;
- (c) where necessary, in the opinion of the Agency, an acceptable method of analysis suitable for regulatory purposes that shall determine the amount of food additive in any substance arising from the use of the food additive;
- (d) data establishing that the food additive shall have the intended physical or other technical effect;
- (e) detailed reports of test method to establish the safety of the food additive under the conditions of use recommended;
- (f) data to indicate the residues that may remain in or on the finished food when the food additive is used in accordance with good manufacturing practice;
- (g) a proposed maximum limit for residues of the food additive in or on the finished food;
- (h) specimen of the labelling proposed for the food additive; and
- (i) a sample of the food additive in the form in which it is proposed to be used in foods and on request, a sample of food containing the food additives.

8. Restriction on sale, of baby foods containing food additive.

No person shall manufacture, import, export distribute, advertise, display for sale or sell a food that is presented for use in babies, if the food contains food additives, unless permission for such use has been granted by the Agency.

9. Conditions for allowing more than one preservative.

Where more than one preservative is used in a food, the sum of the ratios of the quantities of each preservative present in the product to the quantities permitted in the product shall be as prescribed by the Agency.

10. Ionizing radiation.

Food additives which have been treated with ionizing radiation shall be so designated.

11. Penalty.

(1) A person who contravenes a provision of these Regulations is guilty of an offence and liable on conviction:-

- (a) in case of an individual, to imprisonment for a term not exceeding two years or to a fine not exceeding ₦50,000 or to both imprisonment and fine; and
- (b) in the case of body corporate, to a fine not exceeding ₦100,000.

(2) Where an offence under these Regulations is committed by a body corporate or firm or other association of individuals:-

- (a) every director, manager, secretary or other similar officer of the body corporate; or
- (b) every partner or officer of the firm; or
- (c) every trustee of the body concerned; or
- (d) every person concerned in the management of the affairs of the association; or
- (e) every person who was purporting to act in a capacity referred to in paragraphs (a) to (d) of this regulation, is severally guilty of that offence and liable to be proceeded against and punished for that offence in the same manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without their knowledge, consent or connivance.

12. Forfeiture.

In addition to the penalty specified in regulation 11 of these Regulations, a person convicted of an offence under these Regulations shall, forfeit to the Agency, the food product or food additive and whatsoever is used in connection with the commission of the offence.

13. Interpretation.

In these Regulations, unless the context otherwise requires:-

