

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

No. R.

dd/mm/yyyy

AGRICULTURAL PRODUCT STANDARDS ACT, 1990
(ACT No. 119 OF 1990)DRAFT REGULATIONS RELATING TO TEA AND RELATED PRODUCTS INTENDED FOR SALE
IN THE REPUBLIC OF SOUTH AFRICA

The Minister of Agriculture, Land reform and Rural Development has in terms of 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 thereof.

SCHEDULE

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Definitions

1. Any word or expression in these regulations to which a meaning has been assigned in the Act shall have that meaning, and unless the context otherwise indicates –

"assignee" means a person, undertaking, body, institution, association or board designated under section 2(3) of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990);

"batch" means a definite quantity of tea or a related product produced essentially under the same conditions, and not exceeding 24 hours;

"best before date" or **"best quality before date"** means the date which signifies the end of 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;

"container" means the immediate packaging in which tea or a related product is presented for sale to the consumer, but excludes individual pods/ capsules and filter bags, as well as sealed bags (manufactured from aluminum foil or any other suitable material) containing such units that are packed inside a container;

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

"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 under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972);

"freeze dried" means a process in which the product in the liquid state is frozen and the ice removed by sublimation, with the dried particles typically having a granular appearance;

"fruit infusion" means fruit, parts of fruit and parts of the fruit plant (e.g. leaves, seeds and flowers of fruit, fruit peel and dried fruit, etc.) intended for making a brew suitable for consumption as a beverage;

"ground tea" means that the tender shoots and leaves of varieties of the species *Camellia sinensis* (L.) O. Kuntze have been steamed, dried and grounded into a fine powder;

"herbal infusion" means plants or parts of plants [e.g. rooibos (*Aspalathus linearis*), honeybush (*Cyclopia* genus), chamomile (*Matricaria retutica* or *Chamaemelum nobile*) and buchu (*Agathosma Betulina*), etc.] intended for making a brew suitable for consumption as a beverage;

"herbs" means either fresh or dried non-toxic leafy green or flowering parts of a plant used for among others the flavouring of foodstuffs;

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

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

"outer container" means a container in which more than one container of tea or a related product is packed;

"premix" means a product that consists of tea or a related product mixed with, for example sugar and/or milk powder and/or creamer, that is intended to be dissolved in hot or cold water to deliver a ready-to-drink beverage;

"prepared tea" means a pre-packed ready-to-drink tea beverage, with or without added sugar and/or milk and/or creamer and food additives, that is obtained by brewing or dissolving any of the categories of tea and related products referred to in regulation 3 in water, and that is presented for sale at retail and other commercial outlets;

"related products" means the products intended for consumption as a beverage as defined in regulations 5 to 7;

"spice" means dried, pungent or aromatic substances of edible plant origin (i.e. from the root, stem, bulb, bark or seeds) primarily used for flavouring, colouring or preserving foodstuffs;

"spray dried" means a process in which the product in the liquid state is sprayed into a hot atmosphere and formed into dried particles in a powder form by evaporation of the water;

"sugar" means sugar as defined in the Codex Standard for Sugars (CODEX STAN 212-1999);

"tea" means the product derived solely and exclusively from the tender shoots and leaves of varieties of the species *Camellia sinensis* (L.) O. Kuntze and produced by acceptable processes (e.g. withering, leaf maceration, aeration, drying, etc.) intended for making a brew suitable for consumption as a beverage;

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

"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.

Restrictions on the sale of tea and related products

2. (1) No person shall sell tea and related products in the Republic of South Africa unless –
 - (a) it is sold according to the categories referred to in regulation 3;
 - (b) it complies with the standards prescribed for each category referred to in regulations 4 to 7;
 - (c) the containers and outer containers in which it has been packed comply with the requirements referred to in regulation 8;
 - (d) it is marked in the manner and with the particulars referred to in regulations 9 to 14; and
 - (e) it has not been marked with any restricted particulars or in a manner which is prohibited in terms of regulation 15.
- (2) The Executive Officer may grant written exemption, entirely or partially, to any person on such conditions, as he deems necessary, from the provisions of sub-regulation (1).
- (3) The restrictions in sub-regulation (1) shall not apply to the sale of –
 - (a) tea and related products that are in the course of a business prepared and served on the premises in the ready-to-drink form to the consumer at a restaurant, coffee shop, club, canteen, a fixed or mobile stall, or any other catering establishment;
 - (b) products based on tea and related products that are presented for sale to the consumer in the ready-to-drink form at retail and other commercial outlets that contain added fruit and/or vegetable flavourings, and/or fruit juice and/or vegetable juice, that may have been sweetened or not (e.g. "Peach flavoured tea", "Ice/ Iced tea with apricot juice", etc.);
 - (c) products based on tea and related products that are due to their composition presented for sale to the consumer under a specific designation or variant name such as, but not limited to "Chai latte", "Green tea latte", etc., as –
 - (i) a ready-to-drink beverage (hot or cold) at for example a restaurant, coffee shop, club, canteen, a fixed or mobile stall, or any other catering establishment; or
 - (ii) an instant powder form at retail and other commercial outlets;

- (d) premix tea and prepared tea; and
- (e) herbal and fruit infusions when presented for sale on their own.

PART I

CATEGORIES OF AND STANDARDS FOR TEA AND RELATED PRODUCTS

Categories of tea and related products

3. The categories of tea and related products shall be as follows:

- (1) Named tea and Unspecified tea.
- (2) Instant tea (soluble tea extract).
- (3) Decaffeinated tea and Decaffeinated instant tea.
- (4) Tea essence (liquid tea extract / concentrate)

Standards for categories of tea and related products

Named tea and Unspecified tea

4. (1) Tea falling under the category Named tea and Unspecified tea shall comply with the standards set out in Table 1 below:

TABLE 1
STANDARDS FOR THE CATEGORY NAMED TEA AND UNSPECIFIED TEA

Name of the tea	Method of processing/ special treatment applied to the tender shoots and leaves of the tea varieties	Quality standards
1	2	3
Black tea	Withering, rolling/ leaf maceration, fermentation/ aeration and drying.	All categories shall -- (a) have a total ash content of 4.0 to 8.0 percent; and (b) contain at least 30 percent of water soluble extract.
Oolong Tea	Withering, rolling/ leaf maceration, part-fermentation/ aeration and drying	
Green tea	Enzyme inactivation and commonly rolling or comminution, followed by drying.	
White tea	Non-fermentation/ aeration and drying.	
Yellow tea	Light-fermentation/ aeration and drying.	
Matcha Tea	Fine-milling of selected, non-fermented dried tea leaves.	
Pu-Erh tea	Post-fermentation/ aeration and drying.	
Unspecified tea	Any other methods of processing/ special treatment not mentioned above.	

(2) Tea falling under the category Named tea and Unspecified tea may contain food additives.

Instant tea (soluble tea extract)

5. Instant tea (soluble tea extract) –

- (a) shall consist of the dried soluble solids obtained by spray drying or freeze drying the water extraction of the categories of tea referred to in regulation 4;
- (b) shall be in the powder or granule form; and
- (c) may contain food additives.

Decaffeinated tea and Decaffeinated instant tea

6. (1) Decaffeinated tea –
- (a) shall be obtained from tea of the category Named tea or Unspecified tea referred to in regulation 4 from which caffeine has been removed by any suitable means;
 - (b) shall not contain more than 0.4 percent of anhydrous caffeine; and
 - (c) may contain food additives.
- (2) Decaffeinated instant tea –
- (a) shall consist of the dried soluble solids obtained by spray drying or freeze drying the water extraction of Decaffeinated tea to deliver a product similar to Instant tea (soluble tea extract);
 - (b) shall not contain more than 1.2 percent of anhydrous caffeine; and
 - (c) may contain food additives.

Tea essence (liquid tea extract/ concentrate)

7. Tea essence (liquid tea extract/ concentrate) shall –
- (a) consist of the concentrated essence or liquid extract obtained from the categories of tea referred to in regulations 4 and 6(1), with or without added glycerol and/ or sugar; and
 - (b) not contain any added foodstuffs or food additives other than those mentioned in paragraph (a).

PART II

CONTAINERS AND OUTER CONTAINERS

Requirements for containers and outer containers

8. (1) A container in which tea or related products 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 tea or related products 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 III

MARKING REQUIREMENTS

Marking of containers and outer containers

9. (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 a letter or figure size of at least 1 mm for lower case vowels.

(2) Each container in which tea and related products are packed shall be marked with the following particulars:

- (a) **The product name, and if applicable the additions to the product name**, in 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 in height for lower case vowels, as set out in regulations 10 and 11 respectively: Provided that the name of the added flavourant (e.g. 'vanilla flavoured', 'bergamot flavouring') may be indicated in one different colour when used in the additions to the product name.
- (b) **The additional particulars on the container**, where applicable, as set out in regulation 12.
- (c) **The name and address** of the manufacturer, packer, importer, seller or person or entity on whose behalf the product has been packed.
- (d) **The country of origin**, as set out in regulation 13.
- (e) **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 traceability and batch identification, as set out in regulation 14.

(3) The particulars referred to in sub-regulation (2)(a), (c), (d) and (e) shall be marked on each outer container in which more than one container of tea or a related product is packed.

(4) Individual pods/ capsules or filter bags containing tea or a related product that are packed directly in a container shall be exempted from any of the marking requirements prescribed in sub-regulation (2): Provided that –

- (a) the individual pods/ capsules or filter bags shall not be sold loose; and
- (b) the container containing the individual pods/ capsules or filter bags shall be marked with all the prescribed marking requirements and in the prescribed letter sizes.

(5) When individual pods/ capsules or filter bags containing tea or a related product are packed in a sealed bag (manufactured from aluminum foil or any other suitable material) inside a container, the sealed bag shall be exempted from any of the marking requirements prescribed in sub-regulation (2): Provided that –

- (a) the sealed bag shall not be sold loose; and
- (b) the container containing such sealed bag shall be marked with all the prescribed marking requirements and in the prescribed letter sizes.

Indication of the product name

10. The product names for the categories of tea and related products shall be as follows:

TABLE 2
PRODUCT NAMES FOR THE CATEGORIES OF TEA AND RELATED PRODUCTS

Category	Product name
1	2
(a) Named tea and Unspecified Tea: (i) Black tea (ii) Oolong tea (iii) Green tea (iv) White tea (v) Yellow tea (vi) Matcha tea (vii) Pu-Erh tea (viii) Unspecified tea	(i) "Black tea" or "Tea" (ii) "Oolong tea" (iii) "Green tea" (iv) "White tea" (v) "Yellow tea" (vi) "Matcha tea" (vii) "Pu-Erh tea" (viii) The appropriate product name used when tea has been processed/ treated in a manner other than the methods described in regulation 4(1), Table 1.
(f) Instant tea (soluble tea extract)	"Instant 'X' tea" or "Soluble 'X' tea"
(g) Decaffeinated tea and Decaffeinated instant tea	"Decaffeinated 'X' tea"/ "Decaf 'X' tea" or "Decaffeinated instant tea"/ "Decaf instant tea", as the case may be.
(d) Tea essence (liquid tea extract/ concentrate)	"'X' tea essence" or "'X' tea concentrate" or "Liquid 'X' tea extract"/ "Liquid 'X' tea concentrate"

Note: 'X' refers to the name of the specific category of tea used.

Additions to the product name

11. (1) The expression "blend" shall form part of the product name in the case where –
 - (a) two or more categories of tea are blended and packed in the same container;
 - (b) one or more categories of tea are blended with a herbal infusion; or
 - (c) a specific category of tea was source from different countries, locations or geographical areas and blended.
- (2) When a foodstuff, **herbal infusion and/or a fruit infusion**, herb and/ or spice have been added to tea or related products, the actual name of the added foodstuff, **herbal infusion, fruit infusion**, herb and/ or spice shall form part of the product name: Provided that where a mixture of two or more kinds of herbs or spices have been added, the expression "mixed herbs" or "mixed spices", as the case may be, may be used instead.
- (3) When a flavouring has been added to tea or a related product in order to render a distinctive specific flavour thereto, the product name concerned shall be preceded by the descriptive name for the distinctive flavour concerned and 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 flavourant concerned has been added with the intention to enhance the flavour of the added foodstuff, herbal infusion, **fruit infusion**, herb or spice concerned.
- (4) The expression "ground" shall form part of the product name in the case where a category of tea is presented for sale in the ground form.
- (5) The expression "loose leaf" shall form part of the product name in the case where loose leaf tea is packed in the container.
- (6) Notwithstanding the requirements in sub-regulations (2) and (3), the following applicable expressions only may be indicated as part of the product name: Provided that a complete ingredients list appear on the container:

- (a) 'Chai' - if a blend of spices (e.g. cardamom, cinnamon, fennel, black pepper, cloves, etc.) has been added to the tea concerned; or
 - (b) 'Earl Grey' - if the tea concerned has been flavoured with oil from the rind of bergamot orange.
- (7) The following information may be indicated as part of the product name and/or be indicated on its own:
- (a) The name of a specific country, location or geographical area when the category of tea is derived exclusively from one country, location or geographical area.
 - (b) The name of a specific country, location or geographical area when a specific category of tea was source from different countries, locations or geographical areas, but the name of only a specific country, location or geographical area is indicate as the origin from where the tea is derived: Provide that --
 - (i) the largest percentage of the tea concerned originates from the named country, location or geographical area; and
 - (ii) the tea from the named country, location or geographical area lends the determining character to the tea blend concerned (e.g. '*Ceylon blend*', '*Assam tea blend*').
 - (c) The name or description used to distinguish between the various blends within a specific category of tea (e.g. *English breakfast*, *Breakfast blend*, *House blend*, *Afternoon tea*): Provided that if the expression "blend" forms part of such name or description, it shall be subject to the provisions of **sub-regulation (1)**.
 - (d) The intensity of the tea when brewed (e.g. mild, medium, strong).
 - (e) The method used to obtain Instant tea (soluble tea extract) in the powder form, i.e. spray dried or freeze dried.
 - (f) The claims "100%", "100% pure", "100% tea", "100% pure tea", "pure tea" or "pure", or any word or words having a similar meaning, in the case of Named tea and Unspecified tea, Instant tea (soluble tea extract), Decaffeinated tea and Decaffeinated instant tea only: Provided that if a flavouring and/or any foodstuff has been added to the afore-mentioned products, these claims shall not be marked on the container of such products.

Additional particulars on the container

12. Sensory descriptions about the flavour and aroma of a particular tea or a related product may be indicated on the container: Provided that it does not form part of the product name and that the sensory descriptions is associable with the actual tea fragrance.

Indication of the country of origin

13. (1) The country of origin shall be declared as follows on every container:
- (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; or
 - (c) 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.

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

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

Indication of the date marking or batch code or batch number

14. (1) For the purpose of batch identification and traceability, each container containing tea and related products 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) If 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 tea or related 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) If tea or a relate 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

15. (1) (a) No product name other than the applicable product name in Table 1 for the tea or related product concerned shall be marked on a container thereof: Provided that product names of other categories of tea and/or related products from the same manufacturer indicated for the sole purpose of promotion and/or comparative claims shall be allowed on the side panel or back panel of a container and shall be accompanied by wording such as but not limited to for example “also try these products in our range”, etc.
- (b) No word or expression which so nearly resembles the product name for tea or a related product concerned that it could be misleading with regard to the composition of the product presented for sale shall be marked on the container of such product.

(2) No word, mark, illustration, depiction or other method of expression that constitutes a misrepresentation or directly or by implication creates or may create a misleading impression regarding the quality, nature, category, origin or composition of tea or a related product shall be marked on a container of such product.

(3) Subject to the provisions of regulation 11(7)(f), the claims “100%”, “100% pure” “100% tea”, “100% pure tea”, “pure tea” or “pure” shall not be marked on the container of the Tea essence (liquid tea extract/ concentrate).

(4) No claim regarding the absence of any substance that does not normally occur in tea or a related product shall be marked on the container of such product, except in the cases where the negative claim is allowed for in the regulations published under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972).

(5) The word “instant” may only be marked on a container containing Instant tea (soluble tea extract) and Decaffeinated instant tea.

(6) Any depictions, illustrations, words or wording which emphasise the presence of the added foodstuff, herbal infusion, **fruit infusion**, herb or spice in tea or related products shall only be allowed if the requirements of 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.

(7) The provisions of this regulation shall also apply to particulars that are marked on --

- (a) an outer container in which one or more separate containers of tea or related products is packed;
- (b) a notice board displayed at or in the immediate vicinity of tea or a related product that is kept or displayed for sale; and
- (c) all advertisements for tea and related products.

PART IV

SAMPLING AND INSPECTION

Sampling

16. 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.

Analysis

17. (1) Samples shall be analysed using the latest versions of the methods set out in Table 3.

(2) Notwithstanding sub-regulation (1), any other method which is accepted and approved by the Association of Official Agricultural Chemists (AOAC) or the International Organization for Standardization (ISO) 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.

TABLE 3
METHODS OF ANALYSIS

Nature of determination	Method
(a) Caffeine content	ISO 10727:2002
(b) Total ash (on a dry basis)	AOAC 920.100A
(c) Water soluble extract/ matter (on a dry basis)	AOAC 920.100B

(3) If the results of the analysis performed deviate from the prescribed compositional requirements for the product concerned, the whole batch from which the relevant samples were obtained shall be regarded as non-compliant.

PART V

OFFENCES AND PENALTIES

Offences and penalties

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

DRAFT