

Foodstuffs, Cosmetics and Disinfectants Act, 54 of 1972 (FCDA)

Topic: Food, Health and Safety

IN A CALABASH

Introduction

Food carries potential risks that can be harmful to one's health. Consumers are entitled to expect and deserve protection against risks found in food. In order to ensure that food is of a good quality and not harmful or toxic, worldwide laws have been brought into existence to lay down certain standards for manufacturers and distributors of foodstuffs to comply with. These laws set down a number of standards and requirements in relation to the manufacture and supply of foodstuffs, the requirements to register certain foodstuffs, the labeling and advertising of a foodstuff and the actual composition of any foodstuff, including restrictions on certain ingredients and nutrients which may be added and/or blended with any foodstuff. The main law dealing with foodstuffs in South Africa is the Foodstuffs, Cosmetics and Disinfectants Act (FCDA), which addresses the manufacture, labelling, sale and importation of foodstuffs.

Objectives of the Act

The objective of the FCDA is to regulate and control the manufacture and importation; packaging and labelling; advertising and marketing; and sale and distribution of foodstuffs in South Africa.

Application of the Act and its implication to Tourism

The FCDA applies to any entity or person who manufactures, farms, produces, processes, packs, labels, promotes or advertises a foodstuff and to the person or outlet who ultimately sells or offers the foodstuff to any other person.

All these people have a duty to comply with the FCDA and regulations.

Summary of the provisions of the Act

A number of specific requirements are housed under the FCDA and regulations which any person manufacturing, importing, packing, labeling, advertising, marketing, selling or distributing the foodstuff must comply with, some of which are basic and others which are highly technical and scientific in nature.

Below is a summary of the more basic requirements which apply to the sale and distribution of foodstuffs.

Food must be fit for human consumption

The FCDA categorically prohibits the sale, manufacture or importation of any foodstuff—



- which contains or has been treated with a prohibited substance;
- which does not comply with any standard of composition, strength, purity or quality prescribed by regulation;
- which is contaminated, impure, decayed or is harmful or injurious to human health;
- to which any substance has been added so as to increase the mass or volume of such foodstuff with the object to deceive; or
- which has been treated in such manner that its damaged or unsound condition or inferior quality is concealed either entirely or in part.

False description of articles

No person is allowed to advertise foodstuffs in a misleading manner or describe any foodstuff in a manner which is false or misleading regarding its origin, nature, substance, composition, quality, strength, nutritive value or other properties or the time, mode or place of its manufacture for purposes of sale.

Application of the hazard analysis and critical control point system (HACCP System)

A hazard analysis and critical control point system, known as the HACCP system, identifies, evaluates and controls hazards which are significant for food safety.

The operator of any food manufacturing or handling facility must ensure that a HACCP system is fully implemented in such a facility to the satisfaction of the relevant authorised health authority.

Before a food manufacturing or handling facility begins operating, it must be inspected by a health inspector who will perform a HACCP certification audit in order to confirm that the facility is clean and hygienic.

If satisfied, the authority will then issue that facility with a HACCP certificate which will be valid for a period not exceeding one year.

The operator of the facility must perform HACCP audits on a regular basis, either on his or her own or through a service provider. All records pertaining to these audits must be

kept on file, and any recommendations resulting from the audit are to be implemented immediately.

Food premises and the transport of food

In the absence of a valid certificate of acceptability or where transportation or handling of food is in contravention of any restriction or condition or stipulation contained in such certificate of acceptability, the handling of food is not allowed on any food premises.

Any person in charge of any food premises wishing to obtain a certificate of acceptability must make an application for such a certificate to the municipality where the food premises are situated or where the business is carried out.

Labeling and advertising regulations

All persons who manufacture, import, advertise, sell or offer any pre-packaged foodstuff for sale or consumption must make sure that the foodstuff is labeled in accordance with the labeling and advertising regulations.

The following foodstuffs do not need to be labeled with a list of ingredients–



- vinegars;
- a foodstuff which consists of a single ingredient and the name of which clearly identifies the product;
- eggs;
- fresh fruit and vegetables;
- wheat products;
- unprocessed fish, marine products and meat of animals and birds;
- any ready-to-eat foodstuff prepared and sold on the premises of a catering establishment for consumption, except for information on the list of ingredients, including allergens, which must be available at the point of sale upon request;
- unpacked or transparently-packed servings of foodstuffs that are sold as snacks on the premises where they are prepared;
- flour confectionary intended to be consumed within 24 hours of manufacture, except for information on the list of ingredients, including allergens, which must be available at the point of sale upon request; and
- ice.



WHAT HAPPENS IF YOU DO NOT COMPLY?

Any person who contravenes the act will be guilty of an offence and if convicted will be liable—

- on a first conviction, to a fine or to imprisonment for a period not exceeding six months or to both a fine and such imprisonment;
- on a second conviction, to a fine or to imprisonment for a period not exceeding twelve months or to both a fine and such imprisonment; and
- on a third or subsequent conviction, to a fine or to imprisonment for a period not exceeding twenty-four months or to both a fine and such imprisonment.

The court convicting any person of an offence under this Act may declare any foodstuff, appliance, product, material, substance or other object in respect of which the offence has been committed or which was used for, or in connection with the commission of the offence, to be forfeited to the State.



RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT

- Awareness of all applicable standards and regulations;
- Guarantees from food suppliers that their foodstuffs comply with the FCDA;
- Quality control in-house and by suppliers;
- Permit from local authority to operate a foods facility;
- Correct labeling and advertising;
- Food which is perishable is refrigerated and quality-controlled;
- High hygiene standards and levels in place;
- HACCAP in place;
- Permit from local inspector that premises comply with FCDA and local by-laws;
- No unlawful or misleading claims; and
- Correct packaging and warnings where applicable.

FURTHER INFORMATION

Regulator

Administration of Act by authorised local authority

The Minister may, by notice in the Gazette, authorise any local authority to enforce within its area of jurisdiction and through its duly authorised officers, such provisions of this Act as the Minister may specify in the notice.

A local authority in its area of jurisdiction may, through any person generally or specially authorised by it, prosecute in respect of any contravention of or failure to comply with the provision in question which is alleged to have taken place in the said area.

Website

See municipal sites