

Consultation on Draft Food (Amendment No X) Regulations 2023 and Sale of Food (Freshly Prepared Nutri-Grade Beverages — Exemption) Order 2023: Additional Measures for Nutri-Grade Beverages

Aim

1. The Singapore Ministry of Health (MOH) and Health Promotion Board (HPB) are seeking feedback from stakeholders on the proposed new legislation under the Sale of Food Act 1973, to extend Nutri-Grade labelling requirements and advertising prohibitions to freshly prepared beverages for sale at specified settings in Singapore. Additional labelling requirements will also be introduced to beverages under the current Nutri-Grade measures. These include pre-packaged beverages sold in Singapore and beverages dispensed from machines.

2. The measures aim to further reduce the population's sugar intake as freshly prepared beverages are another large and growing source of sugar in Singaporeans' diets. Freshly prepared beverages include freshly brewed coffee or tea, freshly squeezed juices, freshly blended smoothies, bubble tea, freshly prepared herbal drinks, and beverages dispensed from machines.

3. The additional measures will apply to freshly prepared and existing Nutri-Grade beverages sold in specified settings, which include (i) retail settings such as food and beverage outlets and catering establishments, and (ii) non-retail settings such as hotels, workplaces, educational institutions, healthcare institutions and childcare facilities. MOH and HPB are working towards publishing the measures in the Government Gazette in mid-2023, to have them come into effect six months thereafter in end-2023. Key changes are summarised as follows:

- a) Freshly prepared Nutri-Grade beverage would have to be graded "A", "B", "C" or "D", according to the Nutri-Grade grading system which is based on the beverages' sugar and saturated fat content;
- b) If the freshly prepared or existing Nutri-Grade beverage is graded "C" or "D", the Nutri-Grade mark must be labelled next to beverages listed for sale, such as on physical or online menus at their point of purchase. The labelling of Nutri-Grade beverages graded "A" or "B" will continue to be optional. To better help consumers in their decision making when selecting beverages from menus, a simplified Nutri-Grade mark has been developed and is to be placed next to the individual beverage listings;
- c) Information on freshly prepared Nutri-Grade beverages, such as the amount of sugar and saturated fat, must be available to any person who wishes to view the information, either through an electronic record or a physical copy; and
- d) Advertisements promoting the sale of a freshly prepared Nutri-Grade beverage graded "D" will be prohibited.

Background

4. High sugar intake is linked to increased risk of obesity and diabetes. A 2021 local meta-analysis which included studies on Asian populations found that higher consumption of sugary beverages was associated with a 51% higher risk of diabetes, compared to lower consumption¹. The World Health Organization (WHO) has called on countries to take action to reduce individuals' intake of sugar to as low as possible, stating that "nutritionally, people do not need any sugar² in their diet"³.

5. However, Singaporeans are consuming on average twelve teaspoons (or 58g) of sugar daily, of which pre-packaged beverages are the single largest contributor. In view of this, MOH and HPB published labelling requirements and advertising prohibitions for pre-packaged Nutri-Grade beverages sold in Singapore on 30 December 2021, which came into effect on 30 December 2022.

6. More than half of Singaporeans' daily sugar intake comes from beverages. The additional measures, together with regulations 184A-184F in the Food Regulations, will enable us to better meet our objective of reducing Singaporeans' overall sugar intake, by (a) helping consumers identify beverages that are higher in sugar and saturated fat and make more informed, healthier choices; (b) reducing the influence of advertising on consumer preferences, and (c) spurring industry reformulation.

Proposed amendments

Note: The proposed new legislation is in blue text

7. To give effect to the above, MOH and HPB are working with the Ministry for Sustainability and the Environment (MSE) and the Singapore Food Agency (SFA) to amend the Food Regulations by:

- a. Amending the existing definitions in Regulation 2, and inserting new definitions into Regulation 2 as set out below:

2.—(1) In these Regulations, unless the context otherwise requires —

"automated beverage dispenser" means a machine that dispenses a non-prepacked beverage, ~~according to a prefixed formula, with no option for a prospective purchaser of the beverage to customise the amount of any ingredient in the beverage; which is –~~

¹ Nithya Neelakantan, Su Hyun Park, Guo-Chong Chen, Rob van Dam. (2021; In Press) Sugar-sweetened beverage consumption, weight gain, and risk of type 2 diabetes and cardiovascular diseases in Asia: a systematic review. *Nutrition Reviews*. [Notes: For the purpose of this study, "higher consumption" is defined as daily or almost daily consumption, with a median of 2 servings per day, and "lower consumption" is defined as rare or no consumption.]

² Sugar here refers to free sugars, which is defined by the WHO as sugars added to foods and drinks, and sugar that is naturally present in honey, syrups and fruit juices. These do not include the sugars present in milk (i.e. lactose and galactose) and the sugars present in whole fruit and vegetables.

³ WHO (2016, Oct 11) *WHO urges global action to curtail consumption and health impacts of sugary drinks* [Press release] Retrieved from www.who.int/news-room/details/11-10-2016-who-urges-global-action-to-curtail-consumption-and-health-impacts-of-sugary-drinks

(a) customisable, that is, with an option for a prospective consumer of the beverage to customise the amount of any ingredient in the beverage; or

(b) non-customisable, that is, without the option described in paragraph (a);

“consumer-facing”, in respect of an automated beverage dispenser, means an automated beverage dispenser that shows an image or text listing of what beverage may be dispensed and is placed –

(a) at or behind a counter in a way that allows a prospective consumer in front of the counter to see the image or text listing;

(b) in a way that allows a prospective consumer to dispense a beverage of his or her choice, based on the image or text listing; or

(c) in any other way that allows a prospective consumer to see the image or text listing;

“default preparation”, in respect of any freshly prepared Nutri-Grade beverage, means a freshly prepared Nutri-Grade beverage that is prepared for a prospective consumer who does not customise the amount of any ingredient in the Nutri-Grade beverage;”

“freshly prepared”, in respect of any Nutri-Grade beverage, means a Nutri-Grade beverage that is —

(a) prepared by hand —

(i) at the place or premises where it is sold; or

(ii) at any place or premises before it is sold online; or

(b) for which a prospective consumer may customise the amount of at least one ingredient in the Nutri-Grade beverage;

“Nutri-Grade beverage” has the meaning given by regulation 184A”;

“prepacked” means packed or made up in advance ready for sale in a wrapper or container, and where any food packed or made up in a wrapper or container is found on any premises where such food is packed, kept or stored for sale, the food shall be deemed to be prepacked unless the contrary is proved, and it shall not be sufficient proof of the contrary to show that the food had not been labelled in accordance with the provisions of these Regulations;

“pre-packaged”, in respect of any Nutri-Grade beverage, means a prepacked Nutri-Grade beverage that is not freshly prepared;

“specified setting”, in respect of the sale of any Nutri-Grade beverage, means —

- (a) sale of the Nutri-Grade beverage by a retail food business, from an automated beverage dispenser or from a vending machine;
- (b) supply of the Nutri-Grade beverage under a contract (whether or not the contract is made with the consumer of the beverage), together with any accommodation, service or entertainment, in consideration of an inclusive charge for the Nutri-Grade beverage and the accommodation, service or entertainment;
- (c) supply of the Nutri-Grade beverage (whether or not for consideration) in the course of providing services —
 - (i) to patients in hospitals, hospices and other residential care facilities like nursing homes;
 - (ii) to children or other individuals in the care or custody of the supplier by virtue of any Act; or
 - (iii) to prisoners or inmates in prisons or other places for the detention of individuals under any Act; or
- (d) supply of the Nutri-Grade beverage as part of providing amenities at a place of work;

“sugar declaration”, in respect of a topping to a freshly prepared Nutri-Grade beverage, means a declaration of the sugar content of the Nutri-Grade beverage’s sugar content with the topping minus the sugar content without the topping that is made in accordance with paragraph (3);

“topping”, in respect of a freshly prepared Nutri-Grade beverage, means caramel syrup, ice cream, pudding, tapioca pearls, whipped cream or any other ingredient added to the Nutri-Grade beverage for decoration or to enhance flavour;

“total sugar”, in respect of any Nutri-Grade beverage, means any monosaccharide and disaccharide in the Nutri-Grade beverage;

(3) For the purpose of the definition of “sugar declaration” —

- (a) the Nutri-Grade beverage’s sugar content (with or without a topping) is the grams of total sugar per 100 ml of the Nutri-Grade beverage minus the grams of lactose and galactose per 100 ml of the Nutri-Grade beverage;
- (b) in determining the sugar content—
 - (i) subject to sub-paragraph (ii), the grams of total sugar, lactose and galactose per 100 ml of the Nutri-Grade beverage are determined by the information that would have been required to be labelled on

the Nutri-Grade beverage's package under regulations 184C(1) and (2), if the Nutri-Grade beverage were sold in pre-packaged form; and

(ii) if the information does not state the grams of lactose or galactose, the grams of lactose or galactose (as the case may be) is taken to be zero grams;

(c) the sugar declaration must –

(i) if required under regulation 184C, comply with the requirements for a nutrition information panel mentioned in that regulation; or

(ii) if required under regulation 184D, comply with the specifications in the document known as “Specifications of the Nutri-Grade mark and Sugar Declaration” that is mentioned in regulation 184D(5).

b. Amending regulation 184A to remove references to a freshly prepared beverage under the exclusion criteria for Nutri-Grade beverages. The additional measures will apply to a Nutri-Grade beverage that is freshly prepared (including a beverage from a customisable automated beverage dispenser), pre-packaged, and dispensed from non-customisable automated beverage dispenser.

Nutri-Grade beverages

184A.—(1) In these Regulations, “Nutri-Grade beverage” means any beverage (including any powder or concentration meant to be reconstituted or diluted with fluids before consumption as a beverage) other than the following:

(a) a beverage that contains more than 0.5% (v/v) alcohol at 20°C;

~~(b) a beverage that is prepared by hand at the place or premises where it is sold;~~

~~(c) a beverage for which a prospective purchaser may customise the amount of any ingredient in the beverage;~~

(d) a beverage mentioned in paragraph (2).

(2) A Nutri-Grade beverage does not include any special purpose food —

(a) for a special medical purpose and that is labelled as being for use under medical supervision;

(b) supplied solely to hospitals, hospices and other residential care facilities like nursing homes for the purpose of providing services to patients in those facilities;

(c) that is infant formula;

(d) that is follow-up formula, that is, food intended for use as a liquid part of the weaning for an infant 6 months or older or young children;

(e) that is formula food for use in a weight control diet, that is, formula food presented as a replacement for a person's total daily diet.

(f) that is diabetic food;

- (g) for a person who requires a specific intake of sugar (including but not limited to sucrose) or saturated fat in the person's diet as a result of a disease, disorder or other condition.

(3) In this regulation, "special medical purpose", in relation to special purpose food, means special purpose food specially processed or formulated and presented for use under medical supervision for the dietary management of a patient —

- (a) who has —
 - (i) limited or impaired capacity to take, digest, absorb or metabolise ordinary food or certain nutrients contained in ordinary food; or
 - (ii) any other special medically-determined nutrient requirement; and
- (b) whose dietary management cannot be achieved only by modifying his or her normal diet or by other special purpose food or both.

c. Amending regulation 184B to:

- i) Require persons to grade a Nutri-Grade beverage intended for sale in a specified setting, which will include a retail and a non-retail setting; and
- ii) State the persons responsible for ensuring that a freshly prepared Nutri-Grade beverage is graded:

Nutri-Grade grading system

184B.—(1) The following persons must ensure that ~~a Nutri-Grade beverage intended for sale by retail in Singapore~~ the following Nutri-Grade beverages are graded "A", "B", "C" or "D" according to the grading system specified in the Sixteenth Schedule —

- (a) a Nutri-Grade beverage (other than a freshly prepared Nutri-Grade beverage) intended for sale in a specified setting —
 - (i) if the Nutri-Grade beverage is manufactured in Singapore ~~for sale by retail in Singapore~~ — its manufacturer;
 - (ii) if the Nutri-Grade beverage is imported ~~for sale by retail in Singapore~~ — its local importer; or
 - (iii) in any other case — its distributor;
- (b) a freshly prepared Nutri-Grade beverage intended for sale in a specified setting —
 - (i) if the Nutri-Grade beverage is prepared by hand at a place or premises — its seller; or
 - (ii) if the Nutri-Grade beverage is sold from a customisable automated beverage dispenser — the person who calibrates the customised automated beverage dispenser to be able to dispense beverages according to inputs given by a prospective consumer of the beverage.

(2) In these Regulations, a reference to the grade of a Nutri-Grade beverage refers to its grade according to that grading system.

- d. Amending Regulation 184C to include the following requirements:
- i) **For a Nutri-Grade beverage (other than a pre-packaged Nutri-Grade beverage):** Information that would have been required on a nutrition information panel must be made available to any person who wishes to view the information;
 - ii) **For toppings added to a freshly prepared Nutri-Grade beverage:** Sugar declaration for the topping available to be added to the freshly prepared Nutri-Grade beverage must be made available to any person who wishes to view the information; and
 - iii) **For beverages dispensed from a customisable automated beverage dispenser:** Information that would have been required on a nutrition information panel must be clearly displayed on, or near to, the customisable automated beverage dispenser. A beverage dispensed from a non-customisable automated beverage dispenser is already subject to this obligation under the current Food Regulations.

Nutrition information of Nutri-Grade beverages

184C.— (1) A person required by regulation 184B(1) to ensure a ~~prepacked pre-packaged~~ Nutri-Grade beverage intended for sale ~~by retail in Singapore in a specified setting~~ is graded must ensure the package of the Nutri-Grade beverage is labelled with a nutrition information panel that —

- (a) is in the form specified in the Twelfth Schedule or in any other similar form that may be acceptable to the Director-General;
- (b) specifies the energy value, the amounts of protein, carbohydrate and fat in the Nutri-Grade beverage;
- (c) unless the Nutri-Grade beverage contains no carbohydrates, specifies the amount of total sugar according to either or both of the following proportions:
 - (i) in grams per 100 ml of the Nutri-Grade beverage;
 - (ii) if the number of servings per package and serving size are stated, in grams per serving of the Nutri-Grade beverage;
- (d) unless the Nutri-Grade beverage contains no fat, specifies the amount of saturated fat according to either or both of the proportions mentioned in sub-paragraph (c)(i) and (ii); and
- (e) where the nutrition information panel specifies the amount of lactose or galactose, specifies the amount according to either or both of the proportions mentioned in sub-paragraph (c)(i) and (ii).

(2) Where the ~~prepacked pre-packaged~~ Nutri-Grade beverage mentioned in paragraph (1) is a powder or concentration meant to be reconstituted or diluted with fluids before consumption as a beverage, the person must (in addition to complying with that paragraph) ensure —

- (a) the nutrition information panel —
 - (i) specifies the information that is required under that paragraph on the basis that the Nutri-Grade beverage is prepared according to the manufacturer's instructions on how to prepare the Nutri-Grade beverage; and
 - (ii) if that information is expressed as grams per 100 ml of the Nutri-Grade beverage, states that the information is on the basis that the Nutri-Grade beverage is prepared according to those instructions; and
- (b) the package of the Nutri-Grade beverage is labelled with those instructions.

(3) For the purpose of paragraph (1), where more than one unit of ~~prepacked~~ ~~pre-packaged~~ Nutri-Grade beverage is packaged for sale as a single item, the requirement to ensure the package is labelled under that paragraph may be satisfied by —

- (a) ensuring the package of each unit of the ~~prepacked~~ ~~pre-packaged~~ Nutri-Grade beverage is labelled; or
- (b) ensuring the package to be sold as a single item is labelled in respect of each type of Nutri-Grade beverage within the package and the package includes a statement that each unit in the package must not be sold separately or a statement to the like effect.

~~(4) Where a Nutri-Grade beverage is sold by retail from an automated beverage dispenser of the Nutri-Grade beverage must ensure the information that would have been required to be labelled on the Nutri-Grade beverage's package under paragraphs (1) and (2), if the Nutri-Grade beverage were sold in pre-packed form, is available (in a form described in paragraph (5)) to any person who wishes to view the information.~~

(4) A person required by regulation 184B(1) to ensure a Nutri-Grade beverage (other than a pre-packaged Nutri-Grade beverage) intended for sale in a specified setting is graded must ensure the information that would have been required to be labelled on the Nutri-Grade beverage's package under paragraphs (1) and (2), if the Nutri-Grade beverage were sold in pre-packaged form, is available (in a form described in paragraph (5)) to any person who wishes to view the information.

(4A) For the purpose of paragraph (4), the information provided for a freshly prepared Nutri-Grade beverage must be based —

- (a) on its default preparation; or
- (b) if there is no default preparation, on the customised preparation of the Nutri-Grade beverage with the poorest grade, and if there is more than one customised preparation with that grade, on the customised preparation with the poorest grade and the highest percentage of sugar content per 100 ml, determined according to paragraph 6 of the Sixteenth Schedule.

(4B) Where —

- (a) a topping may be added to a freshly prepared Nutri-Grade beverage intended for sale in a specified setting; and

- (b) the topping is listed on a menu, poster, sign or other material that is used to inform a prospective consumer that the topping may be added to the Nutri-Grade beverage,

the person mentioned in paragraph (4) must (in addition to complying with that paragraph) ensure that a sugar declaration for the topping when added to the freshly prepared Nutri-Grade beverage is available (in a form described in paragraph (5)) to any person who wishes to view the information.

(4C) The requirement in paragraph (4B) may be satisfied in respect of a topping by a sugar declaration for the topping when added to any freshly prepared Nutri-Grade beverage sold in the specified setting, even if the person allows the topping to be added to more than one type of such beverage.

(5) The information mentioned in paragraph (4) and (4B) must be —

- (a) if the Nutri-Grade beverage is sold from an automated beverage dispenser, clearly displayed on, or near to, the automated beverage dispenser;
- (b) on a website or other electronic record that is viewable by the person; or
- (c) on a physical document that is shown or given to the person on the person's request.

(6) This regulation does not apply in respect of —

- (a) any **prepacked pre-packaged** Nutri-Grade beverage that has a total surface area of less than 100 square centimetres and bears a label that includes a statement of the quantity of total sugar and saturated fat; or
- (b) any of the following Nutri-Grade beverages, if the Nutri-Grade beverage does not contain any calories, protein, fat, saturated fat, carbohydrate and sugar:
 - (i) coffee or a preparation of coffee;
 - (ii) drinking water;
 - (iii) a herbal infusion;
 - (iv) tea or a preparation of tea.

e. Amending Regulation 184D to include the following requirements: -

- i) **For a Nutri-Grade beverage intended for sale in a specified setting:** The beverage shall be labelled with a Nutri-Grade mark next to or in direct relation to each listing of the Nutri-Grade beverage on a menu, poster, sign or other material that is used to inform a prospective consumer that the Nutri-Grade beverage is for sale;
- ii) **For a Nutri-Grade beverage where a prospective consumer may customise the amount of at least one ingredient in the beverage:** The menu, poster, sign or other material mentioned in sub-paragraph (i) must include a description of how the Nutri-Grade beverage that the Nutri-Grade mark is based on is customised;

- iii) **For a topping that is added to the freshly prepared Nutri-Grade beverage:** The menu, poster, sign or other material mentioned in sub-paragraph (i) must include a sugar declaration in respect of the topping; and
- iv) **For a Nutri-Grade beverage sold from a consumer-facing automated beverage dispenser:** The existing requirements for a Nutri-Grade beverage sold from a purchaser-facing automated beverage dispenser under Regulation 184E of the Food Regulations.

Nutri-Grade mark

184D.—(1) In these Regulations, “Nutri-Grade mark” means a mark indicating the following information for a Nutri-Grade beverage:

- (a) its grade;
- (b) its percentage of sugar content per 100 ml, determined according to paragraph 6 of the Sixteenth Schedule, and rounded to the nearest whole number.

~~(2) For the purpose of paragraph (1)(b) —~~

~~(a) a Nutri-Grade beverage’s sugar content is the grams of total sugar per 100 ml of the Nutri-Grade beverage minus the grams of lactose and galactose per 100 ml of the Nutri-Grade beverage; and~~

~~(b) in determining the sugar content —~~

~~(i) subject to sub-paragraphs (ii) and (iii), the grams of total sugar, lactose and galactose per 100 ml of the Nutri-Grade beverage are determined —~~

~~(A) for a prepacked Nutri-Grade beverage — by the information on the nutrition information panel on its package; or~~

~~(B) for a Nutri-Grade beverage sold by retail from an automated beverage dispenser — by the information that would have been required on the nutrition information panel on its package under regulation 184C(1) and (2), if the Nutri-Grade beverage were sold in prepacked form;~~

~~(ii) if the information does not state the grams of total sugar, the grams of total sugar is taken to be zero grams; and~~

~~(iii) if the information does not state the grams of lactose or galactose, the grams of lactose or galactose (as the case may be) is taken to be zero grams.~~

(3) A person required by regulation 184B(1) to ensure a **prepacked pre-packaged** Nutri-Grade beverage intended for sale **by retail in Singapore in a specified setting** is graded —

- (a) may label, or cause to be labelled, the package of a Nutri-Grade beverage with a Nutri-Grade mark if the Nutri-Grade beverage’s grade is “A” or “B”;
- (b) must ensure the package of a Nutri-Grade beverage is labelled with a Nutri-Grade mark if the Nutri-Grade beverage’s grade is “C” or “D”; and

- (c) if the package is labelled in accordance with sub-paragraph (a) or (b), must ensure the Nutri-Grade mark is labelled on the front-of-pack (called in this regulation the FOP) of the package, that is, the face of the package —
 - (i) where the Nutri-Grade beverage's name and brand (if there is a brand) appear; and
 - (ii) that is in a prospective ~~purchaser's~~ consumer's principal field of vision.

(4) For the purpose of paragraph (3), where more than one unit of ~~prepacked~~ pre-packaged Nutri-Grade beverage is packaged for sale as a single item, the requirement to ensure the FOP of the package is labelled under that paragraph may be satisfied —

- (a) by ensuring the FOP of the package to be sold as a single item is labelled with a Nutri-Grade mark in respect of each type of Nutri-Grade beverage within the package and the package includes a statement that each unit in the package must not be sold separately or a statement to the like effect; or
- (b) where the package to be sold as a single item is wholly transparent, by ensuring the FOP of each unit within the transparent package is labelled and ensuring that the Nutri-Grade mark is clearly visible through the transparent package.

(4A) A person required by regulation 184B(1) to ensure a Nutri-Grade beverage intended for sale in a specified setting is graded —

- (a) may label, or cause to be labelled, a Nutri-Grade mark next to or in direct relation to each listing of the Nutri-Grade beverage on a menu, poster, sign or other material that is used to inform a prospective consumer that the Nutri-Grade beverage is for sale, if the Nutri-Grade beverage's grade is "A" or "B"; or
- (b) must ensure a Nutri-Grade mark is labelled next to or in direct relation to each listing of the Nutri-Grade beverage on a menu, poster, sign or other material that is used to inform a prospective consumer that the Nutri-Grade beverage is for sale, if the Nutri-Grade beverage's grade is "C" or "D".

(4B) Where a person labels, or causes to be labelled, a menu, poster, sign or other material in accordance with paragraph (4A)(a), or is required to ensure a menu, poster, sign or other material is labelled in accordance with paragraph (4A)(b), the person must ensure —

- (a) if the Nutri-Grade beverage is one for which a prospective consumer may customise the amount of at least one ingredient in the Nutri-Grade beverage, that the menu, poster, sign or other material includes a description of how the Nutri-Grade beverage that the Nutri-Grade mark is based on is customised; and
- (b) if a topping may be added to the freshly prepared Nutri-Grade beverage, that the menu, poster, sign or other material includes a sugar declaration in respect of the topping.

(4C) The requirement in paragraph (4B)(b) may be satisfied in respect of a topping by a sugar declaration for the topping when added to any freshly prepared Nutri-Grade beverage listed on the menu, poster, sign or other material, even if the person allows the topping to be added to more than one type of such beverage.

(4D) A person who sells a Nutri-Grade beverage in a specified setting from a consumer-facing automated beverage dispenser —

(a) may label, or cause to be labelled, a Nutri-Grade mark in accordance with paragraph (4E) if the Nutri-Grade beverage's grade is "A" or "B"; and

(b) must ensure a Nutri-Grade mark is labelled in accordance with paragraph (4E) if the Nutri-Grade beverage's grade is "C" or "D".

(4E) For the purpose of paragraph (4D) —

(a) the label must be on, or near to, the automated beverage dispenser; and

(b) if more than one beverage is available from the automated beverage dispenser, the label must be next to or in direct relation to the image or text listing of the Nutri-Grade beverage; and

(5) A Nutri-Grade mark must comply with the specifications in the document known as "Specifications of the Nutri-Grade mark and Sugar Declaration" published by the Health Promotion Board, as in force from time to time.

f. Deleting Regulation 184E as the requirements therein have been included in the amended Regulation 184D.

Display of image of Nutri-Grade mark

~~184E.—(1) Subject to paragraph (3), a person who sells a Nutri-Grade beverage by retail online, from a vending machine or from a purchaser-facing automated beverage dispenser —~~

~~— (a) may display, or cause to be displayed, an image of a Nutri-Grade mark so a prospective purchaser may see the image, if the Nutri-Grade beverage's grade is "A" or "B"; and~~

~~— (b) must ensure an image of a Nutri-Grade mark is displayed so a prospective purchaser may see the image, if the Nutri-Grade beverage's grade is "C" or "D".~~

~~(2) For the purpose of paragraph (1), the requirement to ensure an image of the Nutri-Grade mark is displayed is satisfied —~~

~~— (a) where the Nutri-Grade beverage is sold online — by ensuring the image is clearly displayed next to or in direct relation to the online image or text listing of the Nutri-Grade beverage;~~

~~— (b) where the Nutri-Grade beverage is sold in prepacked form from a vending machine —~~

~~— (i) by ensuring that the Nutri-Grade mark on the package of the Nutri-Grade beverage is clearly visible through a window on the vending machine; or~~

~~———— (ii) by ensuring the image is clearly displayed next to or in direct relation to the image or text listing or price tag of the Nutri-Grade beverage; and~~

~~———— (c) where the Nutri-Grade beverage is sold from a purchaser-facing automated beverage dispenser —~~

~~———— (i) by ensuring the image is clearly displayed on, or near to, the automated beverage dispenser; and~~

~~———— (ii) if more than one beverage is available from the automated beverage dispenser, by ensuring the image is displayed next to or in direct relation to the image or text listing of the Nutri-Grade beverage.~~

~~(3) In this regulation, “purchaser-facing automated beverage dispenser” means an automated beverage dispenser that shows an image or text listing of what beverage may be dispensed and is placed —~~

~~———— (a) at or behind a sales counter in a way that allows a prospective purchaser to see the image or text listing;~~

~~———— (b) to allow a prospective purchaser to dispense a beverage of his or her choice, based on the image or text listing; or~~

~~———— (c) in any other way that allows a prospective purchaser to see the image or text listing.~~

g. Amending Regulation 184F to exclude the advertisement prohibition from any advertisement that is published on a menu, poster, sign or other material used or displayed (i) at a premise at which a Nutri-Grade beverage is sold in a specified setting other than a supermarket; or (ii) at a specified online location other than part of an online supermarket.

Prohibition on advertisements relating to Nutri-Grade beverages graded “D”

184F.—(1) A person must not publish, cause to be published, or take part in the publication of, any advertisement used or apparently used to promote, directly or indirectly, the sale of a Nutri-Grade beverage graded “D”.

(2) Paragraph (1) does not apply to any advertisement —

(a) that does not contain a recommendation relating to the consumption of the Nutri-Grade beverage and is published by means of a catalogue, price list or other document for the purpose of supplying the Nutri-Grade beverage by wholesale;

(b) that provides information about the name and/or price of the Nutri-Grade beverage but does not otherwise promote its sale and is published —

(i) On the corporate website of —

(A) a manufacturer, an importer, a distributor ~~or a retailer~~ of the Nutri-Grade beverage ~~that is not freshly prepared~~;

(B) a seller of the freshly prepared Nutri-Grade beverage;

(ii) as part of a product launch that is not accessible to any member of the general public other than an invited guest; or

- (iii) in the form of a press or media release; ~~or~~
- (c) that complies with both of the following requirements:
 - (i) the advertisement is published at a supermarket or an online supermarket;
 - ~~(A) if the Nutri-Grade beverage is sold while carrying on a retail food business — at the food establishment where that business is carried on at a supermarket or an online supermarket ;~~
 - ~~(B) if the Nutri-Grade beverage is sold in prepacked form from a vending machine — on the vending machine;~~
 - ~~(C) if the Nutri-Grade beverage is sold from an automated beverage dispenser — on the automated beverage dispenser; or~~
 - ~~(D) if the Nutri-Grade beverage is sold online — at the online location of sale;~~
 - (ii) the advertisement displays an image of the Nutri-Grade beverage's Nutri-Grade mark, except that an advertisement that involves communication in an audible message need not display the image but must include the audible message that "The Nutri-Grade of this product is D" - ; or
- (d) that is published on a menu, poster, sign or other material used or displayed —
 - (i) at a premise at which a Nutri-Grade beverage is sold in a specified setting other than a supermarket; or
 - (ii) at a specified online location other than part of an online supermarket." ; and

(3) In this regulation —

"corporate website" means an Internet website of a manufacturer, an importer, a distributor or a ~~retailer seller (called in this definition A)~~ that is accessible by the public and through which the public may obtain information about ~~the manufacturer, importer, distributor or retailer a seller and its products~~ A or A's products, but does not include a specified online location.

"online supermarket" means an online location of sale that sells mainly the variety of things referred to in the definition of "supermarket";

"specified online location" means any part of an online location of sale where a prospective consumer is able to select for purchase a Nutri-Grade beverage intended for sale in a specified setting;

"supermarket" includes a convenience store, grocery shop or other establishment however named that sells mainly a variety of food, small household items, toiletries and other small consumer goods.

- h. Expanding the scope of the Sixteenth Schedule to include how the grade based on sugar and saturated fat content should be determined for freshly prepared Nutri-Grade beverages, and amending wordings based on the adjusted definitions.

SIXTEENTH SCHEDULE

Regulation 184B(1), 184C(4A) and 184D(1)

NUTRI-GRADE GRADING SYSTEM

1. A Nutri-Grade beverage may be graded "A", "B", "C" or "D" in accordance with paragraphs 2 to 6, with "A" being the best grade and "D" being the poorest grade.
2. Subject to paragraphs 5 and 6, the grade of the Nutri-Grade beverage is the lower poorer of the following:
 - (a) the sugar content grade determined according to paragraph 3;
 - (b) the saturated fat content grade determined according to paragraph 4.

3. The sugar content grade is determined according to the following table:

Grade	A	B	C	D
Sugar content (g per 100 ml)	Not exceeding one	Exceeding one but not exceeding 5	Exceeding 5 but not exceeding 10	Exceeding 10

4. The saturated fat content grade is determined according to the following table:

Grade	A	B	C	D
Saturated fat (g per 100 ml)	Not exceeding 0.7	Exceeding 0.7 but not exceeding 1.2	Exceeding 1.2 but not exceeding 2.8	Exceeding 2.8

5. Even though a Nutri-Grade beverage's sugar content grade and saturated fat content grade is "A", the grade of the Nutri-Grade beverage is "B" if the Nutri-Grade beverage contains any aspartame, sugar alcohol, carbohydrate alcohol, polyhydric alcohol, or any other substance added in place of sugar to provide a sweet taste.

6. For the purpose of paragraphs 3 and 4 —

- (a) the Nutri-Grade beverage's sugar content is the grams of total sugar per 100 ml of the Nutri-Grade beverage minus the grams of lactose and galactose per 100 ml of the Nutri-Grade beverage;
- (b) the Nutri-Grade beverage's saturated fat content is the grams of saturated fat per 100 ml of the Nutri-Grade beverage; and
- (c) in determining the sugar content and saturated fat content —
 - (i) subject to sub-paragraphs (ii), (iii) and (iv), the grams of total sugar, lactose, galactose and saturated fat per 100 ml of the Nutri-Grade beverage are determined —

- (A) for a ~~prepacked~~ **pre-packaged** Nutri-Grade beverage — by the information on the nutrition information panel on its package; or
- (B) for a Nutri-Grade beverage ~~sold by retail from an automated beverage dispenser that is not pre-packaged~~ — by the information that would have been required on the nutrition information panel on its package under regulation 184C(1) and (2), if the Nutri-Grade beverage were sold in ~~prepacked~~ **pre-packaged** form;
 - (ii) if the information does not state the grams of total sugar or saturated fat, the grams of total sugar or saturated fat (as the case may be) is taken to be zero grams;
 - (iii) if the information does not state the grams of lactose or galactose, the grams of lactose or galactose (as the case may be) is taken to be zero grams; and
 - (iv) for a Nutri-Grade beverage meant to be reconstituted or diluted with fluids before consumption, “100 ml” means 100 ml of the Nutri-Grade beverage prepared according to the manufacturer’s instructions on how to prepare the beverage.

8. MOH and HPB are also working with MSE and SFA to make an exemption order for:
- a. Regulations 184B, 184C, and 184D for a person carrying on a small food business that involves the sale of freshly prepared Nutri-Grade beverages, and for a person who calibrates the customisable automated beverage dispenser of a small food business, and
 - b. Regulation 184F for a person carrying on a small food business who publishes an advertisement of a freshly prepared Nutri-Grade beverage.

1. This Order is the Sale of Food (Freshly Prepared Nutri-Grade Beverages — Exemption) Order 2023 and comes into operation on 2023.

Definitions

2. In this Order —

“automated beverage dispenser” has the meaning given by regulation 2(1) of the Food Regulations (Rg 1);

“freshly prepared”, in respect of any Nutri-Grade beverage, has the meaning given by regulation 2(1) of the Food Regulations;

“Nutri-Grade beverage” has the meaning given by regulation 184A of the Food Regulations.

Exemption for person carrying on food business

3.—(1) Subject to paragraph (2), a person carrying on a food business that involves the sale of a freshly prepared Nutri-Grade beverage is exempt from

regulations 184B, 184C and 184D of the Food Regulations in respect of the sale if the person —

- (a) earns a revenue of not more than \$1 million in the latest financial year, or, if the person carried on the food business for a shorter period than one financial year, in the shorter period; and
- (b) sells those beverages at fewer than 10 food premises, not including any premise used for a primary food production business.

(2) A person that is an entity in a group is exempt from regulations 184B, 184C and 184D of the Food Regulations in respect of the sale if the group —

- (a) earns a revenue of not more than \$1 million in the latest financial year, or, if the group has been formed for a shorter period than one financial year, in the shorter period; and
- (b) sells those beverages at fewer than 10 food premises, not including any premise used for a primary food production business.

(3) In this regulation —

“Accounting Standards” means the accounting standards made or formulated by the Accounting Standards Council under Part 3 of the Accounting Standards Act 2007;

“financial statements” —

- (a) in relation to a person (other than an individual described in paragraph (b)) or a group, means —
 - (i) the audited financial statements of the person or group (as the case may be) for or covering the financial year concerned, prepared in accordance with the Accounting Standards, or equivalent accounting standards of a country outside Singapore, applicable to that person or group; or
 - (ii) in the absence of the statements mentioned in sub-paragraph (i) — the profit and loss statement of the person or group for or covering that financial year; or
- (b) in relation to an individual carrying on a food business as a sole proprietor, means —
 - (i) the audited statement of accounts of the individual for or covering the financial year concerned, prepared in accordance with the Accounting Standards, or equivalent accounting standards of a country outside Singapore, applicable to that individual; or
 - (ii) in the absence of the statement mentioned in sub-paragraph (i) — the profit and loss statement of the individual for or covering that financial year;

“financial year” means —

- (a) for a person carrying on a food business — the period (whether a year or not) for which the financial statements of the person are made up;
- (b) for a group that prepares consolidated financial statements — the period (whether a year or not) for which those consolidated financial statements are made up; and

- (c) for a group that does not prepare consolidated financial statements — the period (whether a year or not) for which the financial statements of the group’s ultimate parent entity are made up;

“group” means 2 or more entities where each entity is either a parent or a subsidiary, or both, of at least one other entity, and for this purpose —

- (a) an entity is a parent of another entity if the entity controls the other entity;
- (b) an entity is a subsidiary of another entity if the entity is controlled by the other entity; and
- (c) an entity controls another entity if —
 - (i) the entity has existing rights that give the entity the current ability to direct the activities of the other entity in a way that significantly affects the amount of the other entity’s returns;
 - (ii) the entity has exposure, or rights, to variable returns from its involvement with the other entity; and
 - (iii) the entity has the ability to use the existing rights mentioned in sub-paragraph (i) over the other entity to affect the amount of the first mentioned entity’s returns from its involvement with the other entity;

“ultimate parent entity”, for a group, means the entity in the group that is a parent but not a subsidiary.

Exemption for person who calibrates customisable automated beverage dispenser

4. Where a person is exempt under paragraph 3 in respect of the sale of a freshly prepared Nutri-Grade beverage that is sold from a customisable automated beverage dispenser, a person who calibrates the customisable automated beverage dispenser to be able to dispense beverages according to inputs given by a prospective consumer of the beverage is exempt from regulations 184B, 184C and 184D of the Food Regulations in respect of the sale.

Exemption for person who publishes, etc., advertisement

5. Where a person is exempt under paragraph 3 in respect of the sale of a freshly prepared Nutri-Grade beverage, a person who publishes, causes to be published, or takes part in the publication of an advertisement used or apparently used to promote the sale of the freshly prepared Nutri-Grade beverage is exempt from regulation 184F of the Food Regulations in respect of the publication.

9. The proposed amendments and exemption will be promulgated in mid-2023, and come into operation in end-2023.

Request for comments

10. MOH and HPB invite views and comments on the proposed new legislation to introduce the additional measures, as outlined in paragraphs 7 to 9 above.

Procedure and timeframe for submitting views and comments

11. All submissions should be clearly and concisely written and should provide a reasoned explanation for any proposed revisions.

12. Submissions should reach MOH and HPB **no later than 24 April 2023** (60 days from the date of Singapore's notification to the WTO Committee on TBT), through email to the following address: Nutri-Grade@hpb.gov.sg.