South Africa

Food fortification

South Africa introduced a Food Fortification Programme in 2003 after a National Food Consumption Survey in 1999 found that one in two children aged between one and nine did not meet half of their daily requirements for specific nutrients.[155] The fortification regulations borne of the Program repeal regulations on the enrichment of maize meal which were promogulated in 1979.

Two regulations under South Africa's Foodstuffs, Cosmetics and Disinfectants Act (FCD Act) 1972[156] mandate fortification. The first are the FCD Act Regulations ***Relating to the Fortification of Certain Foodstuffs No. 504 of 2003***[157] (amended by No. 1206 of 2008[158]) which mandate the fortification of wheat flour, wheat bread, maize meal and unsifted maize meal with vitamins A, B1, B2, B3 and B6, folic acid, iron and zinc.[155] Second, the FCD Act ***Regulations Relating to Food Grade Salt No. 184 of 2007***[159] which mandate the iodisation of food-grade salt but which does not apply to low sodium salt.

Further, the ***National Food and Nutrition Security Plan for South Africa 2018-2023***[155] includes an intervention to fortify porridge for specific populations and notes that biofortification should be explored further in South Africa. The Plan also notes areas of 'good progress' including reductions in fatalities of severe acute malnutrition in young children, reduced vitamin A deficiency, lower anaemia and iron-deficiency anaemia, and a decrease in wasting and being underweight in young children.

Responsibilities and regulatory governance for nutrition labelling

In South Africa, the Minister for Health is responsible for regulating food, including labelling, and the process of nutrition labelling regulation design and drafting is regarded to be strong. Several divisions of the Department of Health (DoH) and other relevant departments are involved in the process of nutrition labelling, including the Department of Planning, Monitoring and Evaluation, which conducts socio-economic impact analyses of new labelling regulations and monitors and evaluates regulations once made. Scientific evidence informs regulation, in the form of local data (where available) and international best practices and standards. Further, all draft regulations are published for public comment and all stakeholders are engaged in the process.

Administration of all food regulation is assigned by the DoH to local municipalities and food health inspectors at ports of entry, an approach that can be problematic as some communities lack the resources to appropriately enforce regulations and rely on self-regulation,[160] making it essentially a ***post-market surveillance system.*** Evaluation is referred to in some strategic plans, and it is understood from a respondent that academia often monitors and evaluates the effectiveness of nutrition policy. Clear enforcement regimes are also laid out in labelling and fortification regulations, and the DoH can authorise officers to enter and inspect premises and sample products and enforce increasing penalties depending on the number of offences committed under the FCD Act.

More generally, survey and interview responses indicated that while nutrition labelling regulation is strong, its implementation, monitoring and evaluation are inadequate, and food labelling responsibilities are disjointed across government departments. For example, inspectors do not have the capacity and are not well trained to monitor labels, which is done at the retail or marketplace level, and inspectors' travel allowances are insufficient to allow travel to manufacturers or laboratories within large jurisdictions, making the inspection or testing of samples unfeasible. One respondent suggested that to be more effective, the monitoring of labels should take place at the production level instead of retail and market levels, which would add pre-market surveillance to the existing post-market surveillance.

It was noted by respondents that consumer awareness of food labelling is low, that consumers do not tend to read labels, and that their food choices are largely driven by product cost and taste. Consumer awareness of food fortification logos has also dropped from 'high' to 'low' since they were introduced (while not reported, we assume this is because of a reduction in consumer awareness campaigns that were conducted when the logos were introduced). This aligns with a 2017 report that showed that in two provinces, only 37% and 44% of respondents reported ever seeing South Africa's food fortification logo, and of those who saw the logo, nearly 80% and 65% reported positive attributes, and 57% and 42% noted that the logo influenced their decision to buy fortified food.[161]

Structure of nutrition labelling laws

South Africa's nutrition labelling regulatory regime is structured as follows:

- *FCD Act (as amended to 2009)*[156] sets out offences for false and misleading labelling and gives the Minister for Health the power to regulate food, including labelling.
- *FCD Act Regulations:*
  - *Relating to the Fortification of Certain Foodstuffs No. 504 of 2003*[157] (amended by No. 1206 of 2008[158]) sets out specific fortification claims and logos and requires detail in nutrient declarations on fortified foods in addition to mandating fortification as outlined above. Manufacturers or importers of food vehicles can seek exemption from labelling provisions.
  - *Relating to Food Grade Salt No. 184 of 2007*[159] sets out a salt-specific fortification claim and logo and requires detail in nutrient declarations on fortified foods, in addition to the naming of iodised food-grade salt. The Regulations also specify that salt be sampled to monitor compliance and set out requirements for batch analysis for quality control purposes. Exemption from labelling requirements can also be sought.
  - *Relating to the Labelling and Advertising of Foodstuffs No. 146 of 2010*[162] sets out the requirements for nutrient declarations, nutrition and health claims and general food labelling requirements (e.g., ingredient list, name of food, and label letter height and language/s). The Regulations also prohibit false and misleading labelling and apply to fortified foods in addition to the specific fortification and salt regulations above.
- *Guidelines Applicable to the Regulations Relating to the Labelling and Advertising of Foodstuffs (R.146 of 1 March 2010) for Compliance Purposes*[163]

Several draft regulations under the FCD Act related to labelling have also been published by the government for public comment but do not appear to have been promulgated yet:

- Draft: FCD Act Regulations Relating to the Labelling and Advertising of Foods: Amendment No. R. 429 of 2014[164] covered nutrient declarations, claims, and a FOPNL, along with the use of the fortification logo.
- Draft: FCD Act Regulations Relating to the Fortification of Certain Foodstuffs No. 217 of 2016[165] covered a fortification FOPNL, general fortification, and health claims.
- Draft for public comment by 30 April 2023: FCD Act Regulations Relating to the Labelling and Advertising of Foodstuffs No. R. 2986 31 January 2023[166] – details of this most recent regulation published in 2023) are below under Nutrition Labels.

Policy context and objectives

While regulations themselves do not specify clear objectives, an interviewee noted that the DoH ensures any labelling regulations align with NCD and broader food and nutrition security policies. The double burden of under- and over-nutrition is also acknowledged in ***South Africa's National Food and Nutrition Security Plan 2018-2023.***[155] This Plan acknowledges that "the complex interconnectivity [of food control] requires a collective effort in the development, implementation, and enforcement" and that effective food control requires food regulation, a policy and institutional framework, food inspection and monitoring, laboratory services and information, and should involve and inform all stakeholders.

There is also evidence that South Africa's nutrition labelling regulations seek to address both over- and under-nutrition as draft food labelling regulations would introduce FOPNL for unhealthy foods, adding to existing fortification logos.

Nutrition labels

Nutrient declarations are mandatory where nutrition claims are made and for fortified foods and iodised salt. Declarations are voluntary for all other foods.

Nutrition and health claims are voluntary (with conditions and some prohibited claims), along with fortification claims for iodised salt, maize meal, wheat flour, and foods that are "fortified for better health" provided the food is fortified per relevant regulations.

Supplementary nutrition information: Four official fortification logos are voluntary if foods are fortified in line with regulations: "Iodated for better health", "Fortified for Better Health", "Manufactured with fortified maize meal for better health", and "Manufactured with fortified wheat flour for better health".[158]

The government released draft food labelling regulations in April 2023 to update requirements for nutrient declarations (to be mandatory for nearly all products, including products that are mandatorily fortified), nutrition and health claims (imposing additional criteria for making voluntary nutrition and health claims, including the use of a nutrient profiling model to screen foods for eligibility), and enrichment of food (specifying what and how much of any vitamin or mineral nutrient can be added per serve, and that foods required to bear the FOPNL cannot be enriched). The draft legislation would also create a new mandatory front-of-pack warning label (FOPNL) for foods high in salt, sugar, saturated fat and/or containing artificial sweeteners. This would add to South Africa's official voluntary fortification logos for salt, maize meal, and wheat flour, and likely follows the commitment to investigate and establish an appropriate educational tool for front-of-pack labels (and meals in restaurants) in the Strategy for the Prevention and Control of Obesity in South Africa 2015-2020, which takes into consideration populations with low literacy.[167]

Recommendations to reform nutrition labelling regulations to enable LSFF

- If draft ***labelling regulations*** that are out for comment until the end of April 2023 are implemented, South Africa's labelling regulations would come into line with best practice – making them mandatory for nearly all pre-packaged foods.
- While ***regulatory governance*** appears to cover key aspects, such as authority, clear enforcement regimes, and responsibility for monitoring, in practice, several aspects of regulatory governance can be improved, for example, through ensuring adequate resources, training and capacity at all levels to implement, monitor, test products/samples, and enforce regulations. This could cover provinces, local municipalities and food health inspectors at ports that are assigned the administration role for all food labelling and who need to manage multiple competing priorities including administration of more time sensitive food safety administration. Pre-market approvals should also be considered (even if via a self-declaration process) rather than relying on post-market surveillance to ensure regulatory compliance – which would also assist in general monitoring and evaluation of regulations by providing better baseline data. The evaluation of regulations and the processes for evaluation (beyond this being the responsibility of the Department of Planning, Monitoring and Evaluation) could be clarified in publicly available documents. Clearer roles and responsibilities and/or improved coordination across departments could also improve regulatory effectiveness and efficiency. We also heard that penalties were insufficient to incentivise compliance, so reviewing penalty adequacy should be considered in updated regulations.

Information sources and limitations

We undertook qualitative surveys and interviews in addition to a desktop regulatory review in South Africa. From these, little detail was identified on several aspects of regulatory governance, including how conflicts of interest are managed during regulatory drafting and design, monitoring and resourcing, and the transparency of evaluation and enforcement. Such information may sit outside of the regulatory documents reviewed.

Table 10 – SOUTH AFRICA – Summary of nutrition labelling regulations

Excludes draft regulations unless specified.

	Nutrient declaration	Nutrition and health claims	SNI
Regulatory form and substance			
Regulatory framework	• Mandatory where nutrition claims are made,[162] for foods that are mandatorily fortified[158] and for salt where the "Iodated for better health" claim and logo are used.[159] Voluntary for all other foods.[162]	• General nutrition and health claims are voluntary,[162] along with the following fortification claims that can be used if fortified in line with regulations: - "Iodated for better health"[159] - "Fortified for better health" on the label or advertising material[158] reserved only for food that is identified and fortified per the regulations[157] - "Manufactured with fortified maize meal for better health" and "Manufactured with fortified wheat flour for better health" may be used for foodstuffs other than food prepared with and containing at least 90% of one or more of the identified food vehicles as an ingredient, excluding water.[158]	• The official fortification logos ("Iodated for better health", "Fortified for Better Health", "Manufactured with fortified maize meal for better health", "Manufactured with fortified wheat flour for better health") are voluntary (if fortified per relevant regulations – see "Nutrition and health claims" column).
Regulatory objective(s)	• None identified	• None identified	• None identified
Operative terms and conditions	• Where included, it must contain:[162] - "Typical nutrition information" as the title and be presented in tabular format unless otherwise indicated, with the order of nutrients per the example in point 1 of the Annexure; - The mass or volume of a single serving; - Minimum mandatory nutrition information per single serving and per 100gm (solids) or ml (fluids) – with the option to include protein, vitamins and minerals for which a Nutrient Reference Value (NRV) exists in a separate column; - Appropriate measurement unit for energy (always "kilojoules" or "kJ") or nutrient value (per the regulations); - Where a mineral is added to a food, the elemental mineral can only be included in the nutrition information, and vitamins and minerals present naturally or added in amounts ≥5% of the NRV for individuals 4 years+. • Additional requirements for nutrient declarations are at s50 and Annexure 2.[162] • Label lettering must be a minimum size (generally 1mm), for fortified foods, the height of lower-case letters must be 1mm in height or bigger size in the case of woven propylene packaging.[157] • For food-grade salt[159] and food and foodstuff manufactured with fortified wheat flour or maize meal[158] the nutrition information must be printed in letters ≥1mm high for lowercase (bigger for polypropylene packaging), the fortification amount per serving (except for iodised salt) and per 100 gm must also be declared, with the declaration printed on the back or side panel of food vehicles or foodstuffs. • In general, labels must be in English and where possible one other official language of South Africa and visible. Unless stipulated otherwise, label information should be ≥1mm in height for lower-case letters. Smaller sizes apply to small packages.[162]	• Certain claims are prohibited (whether in words, logos, pictorials, e.g., implying a food has health-giving properties aside from regulated fortification logos)[164] and nutrient content claims and comparative claims must meet specified conditions, e.g., to claim to be a 'source of', 'high in' or 'very high in' a vitamin or mineral it must be present in varying minimum percentages of an NRV). Antioxidant claims are subject to approval.[162] • The claim "Iodated for better health" must be printed in a prominent position on the main panel in bold print against a contrasting or clear background on all packaging and be visible, easily legible and indelible.[159] • Nutrient content claims may be used in addition to the word 'fortified' on a label only where a micronutrient other than the specified fortificants is added to a food vehicle: provided the conditions of the specific nutrient content claim are met.[157]	• The format and design of the logos are specified in the respective regulations which provide that logos must be:[159] [158] printed in a prominent position on the main panel in bold print against a contrasting or clear background on all packaging; clearly visible, easily legible and indelible; and ≥25 mm for paper and plastic packaging and ≥100 mm for woven polypropylene packaging; and be printed in monochrome or colours as specified.

Regulatory governance	
Drafting regulatory rules and scheme design	• Under the FCD Act, the Minister of Health signs off on food labelling regulations,[156] although various DoH divisions and other departments are involved in regulatory drafting. [SA002-I] [SA001-S] The DoH's Food Control Division conceptualises, drafts and acts as the custodian of food labelling regulations, and ensures alignment with other NCD and broader food and nutrition policies [SA001-I]; the Department of Nutrition informs and conceptualises the information and research underpinning food labelling regulations [SA002-I]; and the Department of Planning, Monitoring and Evaluation monitors and evaluates regulations once made [SA001-S], and conducts socio-economic impact analyses of new labelling regulations. • Regulations are informed by national level research if available or best practice (including other countries' experiences, normative guidance from the WHO, and Codex). [SA001-I, SA001-S] • All stakeholders are consulted and draft legislation is published for public comment for three months and the government notifies the WTO of the legislation. [SA001-S] For example, the process to establish mandatory fortification legislation commenced in 1998 and involved ensuring industry was willing and able to implement (for example, concerns about the changes in product stability and use of existing packaging) with legislation promulgated in 2003. [SA002-I]
Administration	• Under the FCD Act, the Minister for Health may prescribe powers of inspectors and a local authority can be given authorisation to enforce the Act in its jurisdiction.[156] Respondents also noted that: – Administration of all food regulation is assigned by the DoH to provinces and local municipalities and food health inspectors at ports of entry. This approach can be problematic as some communities lack the funding and resources to appropriately enforce regulations leaving large gaps and a reliance on self-regulation.[160] This view was confirmed by respondents who indicated that inspectors, who are also responsible for food safety and hygiene inspections and compliance within their jurisdictions, tend to be under-resourced, have limited budgets, and don't necessarily receive required training. For example, inspectors' travel allowances are insufficient to allow travel to manufacturers or laboratories within large jurisdictions, making inspection or testing of samples at these locations unfeasible. [SA001-I, SA002-I] – Responsibilities are viewed as disjointed across departments [SA001-S] and implementation, monitoring, and evaluating is viewed as inadequate. [SA001-I] • The Food Control Division acts as South Africa's National Contact Point for the joint FAO/WHO Codex Alimentarius Commission; International Food Safety Authorities Network (INFOSAN) and the European Union Rapid Alert System for Food and Feed (RASFF). • Under the Regulations re the Fortification of Certain Foodstuffs[157] any manufacturer or importer of food can seek exemption from labelling provisions by applying in writing to the Nutrition Directorate. Registration with the DoH is required for fortification mix manufacturers, importers and suppliers (with set requirements). Other requirements are specified for manufacturers, importers or sellers of foodstuffs identified as food vehicles such as keeping monthly records of the amount of fortification mixes and total production of food vehicles required to be fortified each month as indicated by the DoH. • Under the Regulations re Food Grade Salt[159] processors, packers or importers of food-grade salt products packed in quantities ≤ 250 g can apply in writing to the DoH to be exempted from iodisation requirements including sampling.
Monitoring	• See details under Administration re the FCD Act. • Respondents stated that inspectors do not have the capacity nor are they well trained to monitor labels at the retail/marketplace level [SA002-I] making monitoring ineffective as a method to ensure compliance since industry does not receive feedback on compliance. [SA002-I] It was suggested that monitoring should take place at production. [SA002-I] • Under the Regulations re Food Grade Salt, food grade, iodised salt is sampled for compliance monitoring purposes to ensure correct levels of iodisation at the processing and packaging point[159] in accordance with the Codex Standard for Food-Grade Salt (CX STAN 1 50-1 985).[168] • Under the Regulations re Labelling and Advertising of Foodstuffs:[162] – All information about the requirements of the Regulations Relating to the Labelling and Advertising of Foodstuffs must be kept on record by the manufacturer, importer, or seller who must be able to produce the documentation within two working days on request by an inspector or employee of the DoH, otherwise they commit an offence. – Information in the nutrient declaration that is required when a claim is made must be the real, typical values as determined by a reputable and accredited laboratory in accordance with the methods in the regulations, guidelines or Codex, and where not recommended, via an accredited method. • Under the Guidelines Applicable to the Regulations Relating to the Labelling and Advertising of Foodstuffs:[163] – Analysis is required to verify that a claim is specified – a manufacturer must establish an audit system for all quantitative nutritional claims to substantiate a claim within 12 months of a product being available for sale or any change in a product formulation, with claims verified by analysis for each nutrient every three years – and when not making a claim (nutritional information should be verified every three years for products with no claims and where nutrient information is not obtained from reputable international databases).
Evaluation	• A respondent stated that enforcement is inefficient due to low inspector knowledge and ability and because monitoring takes place at the retail/marketplace level; and that the monitoring and evaluation of the effectiveness of nutrition policies is often done by academia (for example, small salt intake studies) but in general, the evaluation of nutrition labelling is inadequate. [SA001-I/S] • The National Food and Nutrition Security Plan refers to an independent evaluation of nutrition interventions for children under five: "2.4.2.15 The evaluation compared South Africa against five countries that have made substantial progress towards enhanced food security and nutritional status – Brazil, Columbia, Malaysia, Malawi, and Mozambique. All five countries were found to have a fivefold competitive edge over South Africa, and had the following characteristics in common: (a) a single national leadership and governance structure for food security and nutrition; (b) a single national plan for food and nutrition security; (c) a single national budget for the implementation of food and nutrition security programmes; (d) a single national monitoring and evaluation system; (e) a single national set of indicators."[155]

Enforcement	• The FCD Act, details a clear enforcement regime with penalties for offences relating to labelling foodstuffs in a false and misleading manner. The regime allows, through the head (Director General) of the DoH, authorising various powers and duties to inspectors, including to enter and inspect premises and seize foodstuff that is suspected of contravening provisions under the Act (including regulations). A magistrate's court has the jurisdiction to impose any penalty provided under the Act and its regulations.[156] – Respondents indicated that complaints can be reported to district or municipality inspectors and that overall, enforcement tends to be greater on imported products at ports. [SA002-I] Laboratories face resourcing challenges such as a lack of consumables, which impact their ability to analyse samples. These resourcing issues (along with those concerning officers outlined under Administration, can result in enforcement taking a low priority. [SA001-I, SA002-I] Further, in general fines are small so they are not usually contested [SA002-I] and nutrition labelling is not well enforced. [SA001-S] • Under the Regulations re Fortification of Certain Foodstuffs, any person who uses the official fortification logo on labels or in advertisements for foods other than in accordance with the regulations is guilty of an offence.[157] • Under the Regulations re Food Grade Salt, any person who uses the official iodation health claim and logo on labels or in advertisements for salt other than in accordance with the regulations is guilty of an offence.[159] • Annual national fortification sweeps should also occur and are budgeted for. [SA002-I]

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