The Nutri-Grade Regulations

22 July 2022

LEGAL UPDATE
In this Update

Amendments to the Food Regulations to include the “Nutri-Grade” regulations, which establish requirements for beverage nutrition labelling, will come into force in December 2022.

This article looks at the Nutri-Grade regulations some months ahead of their commencement, with a view to help beverage businesses navigate the changes.
INTRODUCTION

The Food (Amendment No. 2) Regulations 2021 introduced the Nutri-Grade regulations in December 2021, which are slated to commence a year from then, in December 2022.

The Nutri-Grade regulations apply to a wide variety of beverages. With less than half a year to go before these regulations come into effect, beverage businesses who have not begun to adapt to the upcoming changes should certainly do so.

This article hopes to help these businesses by providing knowledge of the Nutri-Grade framework.

THE BEVERAGES

The Nutri-Grade regulations will apply to any “Nutri-Grade beverage”, which is any beverage (including powder or concentrate meant to be reconstituted or diluted) other than a beverage that is (a) alcoholic, (b) prepared by hand where it is sold and not pre-packed, (c) customisable down to the individual ingredients of the beverage, (d) used for a special medical purpose, (e) supplied to hospitals and other patient care facilities, (f) infant formula, (g) follow up formula, (h) diabetic food, or (i) for special dietary requirements as to sugar.

In other words, non-alcoholic drinks sold in packets, cans, bottles, or however pre-packed for retail, as well as syrups, cordials, 3-in-1 sachets and other powders, are all subject to the new Nutri-Grade regulations.

Further, a Nutri-Grade beverage also includes a beverage sold from an “automated beverage dispenser”, defined as “a machine that dispenses a non prepacked beverage according to a pre fixed formula, with no option for a prospective purchaser of the beverage to customise the amount of any ingredient in the beverage”. This definition brings traditional fountain beverages under the Nutri-Grade regulations, and is also likely wide enough to encompass more technologically advanced automated beverage dispensers such as beverage robots.

NUTRI-GRADE MARK

A “Nutri-Grade mark” refers to the label displaying a beverage’s grade and percentage sugar content per 100 ml.
Grading system

A Nutri-Grade beverage must be graded if intended for sale in Singapore, and (a) if the beverage is manufactured in Singapore for sale by retail in Singapore, the manufacturer is responsible for ensuring that it is graded, (b) if the beverage is imported for sale by retail in Singapore, its local importer is responsible for ensuring that it is graded, and (c) in all other cases, its distributor is responsible for ensuring that it is graded.

The grading system is by alphabet and colour coded. Grade “A”, colour-coded a dark green, applies to beverages with sugar content not exceeding 1 gram per 100 ml, less the grams of lactose and galactose in that 100 ml, or with saturated fat not exceeding 0.7 grams per 100 ml, whichever is lower. Where a beverage qualifies for grade “A” based on sugar content or saturated fat, it would nonetheless be required to adopt a grade “B” if it contains aspartame, sugar alcohol, carbohydrate alcohol, polyhydric alcohol, or any other sweetener that is a sugar replacement.

Grade “B”, colour-coded a light green, applies to beverages with sugar content exceeding 1 gram but not exceeding 5 grams per 100 ml, less the grams of lactose and galactose in that 100 ml, or with saturated fat exceeding 0.7 grams but not exceeding 1.2 grams per 100 ml, whichever is lower.

Grade “C”, colour-coded yellow, applies to beverages with sugar content exceeding 5 grams but not exceeding 10 grams per 100 ml, less the grams of lactose and galactose in that 100 ml, or with saturated fat exceeding 1.2 grams but not exceeding 2.8 grams per 100 ml, whichever is lower.

Grade “D”, colour-coded a dangerous red, applies to beverages with sugar content exceeding 10 grams per 100 ml, less the grams of lactose and galactose in that 100 ml, or with saturated fat exceeding 2.8 grams per 100 ml, whichever is lower.

Sugar content

The percentage of sugar per 100 ml displayed on the Nutri-Grade mark must be rounded to the nearest whole number. For the purpose of calculating this percentage, sugar content is measured in grams per 100 ml, less the grams of lactose and galactose in that 100 ml. Information on the pre-packed beverage’s nutrition information panel should be used in this calculation.

Display of Nutri-Grade mark

Beverages graded “A” or “B” may be labelled with a Nutri-Grade mark, whereas those graded “C” or “D” must be so labelled.

All Nutri-Grade marks must be positioned on the “front-of-pack”, known as the “FOP” in the Nutri-Grade regulations, that is, where the name and brand
of the product appear and is in a prospective consumer’s principal field of vision. On multipacks, the Nutri-Grade mark must appear on the FOP of that package with a statement that each unit may not be sold separately, or if the package is transparent such that each unit inside it can be seen, the Nutri-Grade mark must appear on the FOP of all units in the multipack.

If a beverage is sold online, the Nutri-Grade mark must be clearly displayed next to or in direct relation to the online image or text listing of the product. If a beverage is sold from a vending machine, the Nutri-Grade mark must be clearly visible on the package through a display window or else clearly displayed next to or in direct relation to the image, text listing, or price tag of the product. If a beverage is dispensed from an automated beverage dispenser which allows a prospective purchaser to see the beverage, the Nutri-Grade mark must be clearly displayed on or near to the automated beverage dispenser. If more than one beverage is available from the automated beverage dispenser, the Nutri-Grade mark must be clearly displayed next to or in direct relation to the image or text listing of the product.

Images of the Nutri-Grade mark for use on product packaging can be downloaded from the Health Promotion Board’s website. The images are password protected and permission to use them may be requested from the Health Promotion Board via email. Finally, a guess can be made using skill or judgment to predict a result. It does not have to be an uneducated or random guess to be a bet.

**NUTRI-GRADE INFORMATION PANEL**

Nutri-Grade beverages must also be labelled with a nutrition information panel in the form specified in the Twelfth Schedule to the Food Regulations.

**Content of panel**

The nutrition information panel must specify the product’s energy, protein, carbohydrate and fat amounts. With regards to beverages containing carbohydrates, fat, lactose or galactose, this panel must show the amount of that substance in grams per 100 ml of the beverage or in grams per serving size, or both.

If the beverage is a powder or concentrate intended to be reconstituted or diluted, the information provided must be stated to be on the basis that the beverage is prepared according to manufacturer’s instructions, and such instructions are also provided on the package.
Display of panel

On multipacks, the nutrition information panel must appear on the package with a statement that each unit may not be sold separately, or must appear on all units in the multipack.

If a beverage is sold from an automated beverage dispenser, the information required must be clearly displayed on or near to the dispenser, on a website or electronic record viewable by any person who wishes to view the information, or on a physical document that can be shown or given to a person by request.

Exemptions

The following beverage products do not have to be labelled with a nutrition information panel:

- Pre-packed beverages with a surface area of less than 100 square centimetres, provided that a statement of the amount of sugar and saturated fat is shown on the package; and

- Coffee, water, herbal infusions, and tea, provided that these products do not contain any calories, protein, fat, saturated fat, carbohydrate and sugar.

OFFENCES

Prohibition on advertising

Advertising or promoting a grade “D” Nutri-Grade beverage is prohibited.

The prohibition does not apply if the publication relates only to listing the beverage in a document for the purpose of wholesale, and contains no recommendation to consume the product. It also does not apply to information about the name and price of the product, but does not otherwise promote the beverage, published on a corporate website, as part of a product launch, or in a press release.

If an advertisement is published in a food establishment, on a vending machine, on an automated beverage dispenser, or online, it is not prohibited provided that it displays an image of the Nutri-Grade mark showing a grade “D”.

General

Non-compliance with any of the Food Regulations is an offence.

The Sale of Food Act 1973 also provides that it is an offence not to comply with any food labelling requirements or to mislead, deceive or create an
erroneous impression of a product by way of false labelling. “Food” includes beverages.

Besides statutory liability, non-compliant food labelling could also lead to actions for negligence and/or breach of contract.

As a side note, the Nutri-Grade regulations are an add-on to food labelling requirements for pre-packed beverages. All other food labelling requirements, such as declaration of allergens, must also be complied with.
If you have any questions or comments on this article, please contact:

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