

## **FOOD ADVERTISEMENT REGULATIONS 2013**

IN exercise of the powers conferred by Section 34 of the Food Act 1983, the Minister makes the following regulations:-

### **PART I**

#### **PRELIMINARY**

##### **1. Citation.**

(1) These regulations may be cited as the Food Advertisement Regulations 2013

##### **2. Interpretation.**

In these Regulations, unless the context otherwise requires—

“children” refers to persons under 12 years of age

### **PART II**

#### **FOOD ADVERTISEMENT**

##### **3. General.**

(1) Advertisement shall contain information that is reliable, accurate, truthful, informative, balanced and can be substantiated.

(2) Advertisement shall not by implication, omission, ambiguity or exaggeration, mislead or deceive or be likely to mislead or deceive, abuse the trust of or exploit the lack of knowledge, experience, the myth or fear in the consumer.

(3) Only nutrition claims listed in subregulation 18A (3) of the Food Regulations 1985 are permitted in advertisements for food.

##### **4. Prohibition of advertisements.**

(1) No advertisement -

(a) shall undermine the Malaysian Dietary Guideline; or

(b) shall unfairly discredit, disparage or attack other products, advertisements or companies, or exaggerate the nature, origin or importance of competitive differences.

(2) No person shall advertise feature testimonials, endorsements or representations of opinion or preference.

(3) Notwithstanding subregulation 4(2), endorsement by the relevant authorities responsible for such endorsement shall be presumed that the food is in compliance with the requirement established by the relevant authorities in respect of that endorsement.

(4) Words to indicate grading, quality or superiority or any other words of similar meaning shall not appear on the advertisement of any package of food unless such description of quality grading conform to those established by the relevant authorities responsible for such grading; and where such words appear on the advertisement it shall be presumed that the food is in compliance with the requirements established by the relevant authorities in respect of that quality grading.

(5) No advertisement which describes any food shall include the word "pure" or any other words of the same significance unless—

- (a) the food is of the strength, purity, or quality prescribed by these Regulations and is free from any other added substance apart from those essential in the processing of such food; and
- (b) there is no expressed stipulation in these Regulations prohibiting the inclusion of such word in the advertisement in respect of that food.

(6) Except as otherwise provided in these Regulations, pictorial representation or design may be included in the advertisement for the purpose of illustrating recipes involving the use of the food or suggestions on how to serve the food, where such inclusion is not misleading or deceptive and the representation or design is immediately preceded or followed or otherwise closely accompanied, in not less than 6 point lettering, with the words "RECIPE" or "SERVING SUGGESTION" for food or other words of similar meaning, as the case may be.

(7) No advertisement which describes any food shall include any claim –

- (a) stating that any given food will provide an adequate source of all essential nutrients, except as otherwise permitted in this regulation;
- (b) implying that consuming a balanced diet or combination of variety of foods cannot supply adequate amounts of all nutrients;
- (c) which cannot be substantiated;
- (d) as to the suitability of a food for use in the prevention, alleviation, treatment or cure of a disease, disorder or particular physiological condition, except as otherwise permitted in this Regulation;
- (e) which could give rise to doubt about the safety of a similar food or arouse or exploit fear in the consumer; or
- (f) referring to superstitious belief or any reference to mythical object of supernatural bearings or powers

(8) No advertisement which describes any food shall include the word “organic”, “biological”, “ecological”, “biodynamic” or any other words of the same significance unless the food conforms to the requirements specified in the Malaysian Standards MS 1529: The Production, Processing, Labelling and Marketing of Plant-Based Organically Produced Foods.

(9) Except as otherwise provided in Food Regulations 1985, no advertisement which describes any food shall include the word “compounded”, “medicated”, “tonic” or “health” or any other words of the same significance.

(10) No advertisement which describes any food shall include the word “nutritious” or any other words of the same significance unless—

- (a) the food contains a range of nutrients including carbohydrate, fat, protein, vitamin and mineral;
- (b) the food contains a substantial amount of energy of more than 40 kcal per 100 g or 20 kcal per 100 ml;
- (c) the food contains source of protein not less than 5 g per 100 g or 2.5 g per 100 ml;
- (d) the food contains at least four vitamins of an amount that meets the criteria for claim as source and two minerals (excluding sodium) of an amount that meets the criteria for claim as source; and
- (e) the amount of the nutrients mentioned in paragraphs (a) and (d) is declared.

(11) Any person who for the purpose of affecting or promoting the sale of any food, publishes or causes to be published, either on his own account or as the agent or servant of the person seeking to effect or promote the sale, any advertisement relating or likely to cause any person to believe that it relates to such food, or to any ingredient or constituent thereof, which fails to comply with subregulations (1) to (10) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years.

(12) Advertisement for food that is directed to children shall not-

- (a) exploit their illustrations that might result in their physical, emotional or moral harm;
- (b) try to sell by appealing to emotions such as pity, fear, loyalty or self-confidence;
- (c) exploit children’s natural tendency to play by advertising food accompanied by games or toys; or

(d) advertise foods in the shape of toys or cartoon characters.

(13) Advertisement shall not be permitted for Infant Formula and Follow-up Formula. Any descriptive matter appearing on or attached to or supplied with any package of infant formula and follow-up formula shall not include any information on the promotion or advertisement of another product.

(14) Any person who for the purpose of affecting or promoting the sale of any food, publishes or causes to be published, either on his own account or as the agent or servant of the person seeking to effect or promote the sale, any advertisement relating or likely to cause any person to believe that it relates to such food, or to any ingredient or constituent thereof, which fails to comply with subregulations (12) to (13) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding three years.

### **PART III**

#### **GENERAL AND MISCELLANEOUS**

##### **5. Compoundable offences.**

The offences specified in the First Schedule are prescribed as compoundable offences.

##### **6. Compounding of offences.**

(1) An offer to compound shall be made in a form specified in the Second Schedule.

(2) A person who accepts an offer to compound an offence shall furnish payment for the compound in a form specified in the Third Schedule.

##### **7. Payment of compound.**

(1) If an offer to compound an offence is made and accepted by the person to whom the offer is made, he shall make payment by cash, money order, postal order or bank draft to Deputy Director General of Health (Public Health).

(2) The payment shall be delivered personally or sent by prepaid post to the address specified in the Notice of Offer to Compound Offences.

(3) An official receipt shall be issued for every payment received under subregulation (1) to the person to whom the offer to compound is made.

## FIRST SCHEDULE

[Regulation 5]

### COMPOUNDABLE OFFENCES

1. Regulation 3(2) Failure to comply with the requirements relating to the use of nutrition claims listed in the Food Regulations 1985 subregulation 18A(3).
2. Regulation 4(1a) Failure to comply with the requirements of not undermining the Malaysian Dietary Guideline.
3. Regulation 4(1b) Failure to comply with the requirements of not unfairly discrediting, disparaging or attacking other products, advertisements or companies, or exaggerate the nature or importance of competitive differences.
4. Regulation 4(2) Failure to comply with the requirements relating to the advertisement of any testimonials, endorsements or representations of opinion or preference.
5. Regulation 4(3) Failure to comply with the requirements of endorsement by the relevant authorities responsible for such endorsement
6. Regulation 4(4) Failure to comply with the requirements of grading, quality or superiority or any other words of similar meaning that appears on the advertisement of any package of food.
7. Regulation 4(5) Failure to comply with the requirements relating to the use of the word "pure" or any other words of the same significance.
8. Regulation 4(6) Failure to comply with the requirements relating to the use of the pictorial representation or design in the advertisement for the purpose of illustrating recipe involving the use of the food or suggestions on how to serve the food.
9. Regulation 4(7) Failure to comply with the requirements of describing any claims of food.
10. Regulation 4(8) Failure to comply with the requirements relating to the inclusion of the word "organic", "biological", "ecological", "biodynamic" or any other words of the same significance for food unless the food conforms to the requirements specified in the Malaysian Standards MS 1529: The Production, Processing, Labelling and Marketing of Plant-Based Organically Produced Foods.
11. Regulation 4(9) Failure to comply with the requirements relating to the use of the word "compounded", "medicated", "tonic" or "health" or any other words of the same significance.

12. Regulation 4(10) Failure to comply with the requirements relating to the use of the word “nutritious” or any other words of the same significance.
13. Regulation 4(12) Failure to comply with the requirements of advertisement for food that is directed to children.
14. Regulation 4(13) Failure to comply with the prohibition of advertisements for Infant Formula and Follow up-Formula.

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## SECOND SCHEDULE

[Subregulation 6(1)]

### FOOD ADVERTISEMENT REGULATIONS 2013

#### NOTICE OF OFFER TO COMPOUND OFFENCES

When reply please quote:

Office: ..... Place: .....

Reference No.: ..... Date : .....

To:

.....  
.....  
.....

Sir/ Madam,

I have received a complaint against you ..... alleging  
the

(\*state name)

commission of the following offences under regulation ..... of the  
Food Advertisement Regulations 2013.

Date: ..... Time: .....

Place: .....

Particulars of Offences\*: .....

2. You are informed that by virtue of the power conferred on me by section 33 of the  
Food Act 1983, I am hereby offer to compound the offence for the sum of Ringgit  
Malaysia

.....(RM.....).

3. If this offer is accepted, payment shall be made by cash/ money order/ postal  
order/bank draft made payable to Director and may be delivered personally or sent  
by prepaid post to the following address:

.....  
.....  
.....  
.....

4. An official receipt shall be issued on receipt of the payment.

5. This offer to compound remains in force until ..... and if no reply is received on or before that date, prosecution proceedings will be instituted against you ..... without further notice.

(\*state name)

Date .....

.....  
Director or Officer Authorised by Director

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*Note:*

*\*Give details*



### THIRD SCHEDULE

[Subregulation 6(2)]

#### FOOD ADVERTISEMENT REGULATIONS 2013

#### ACCEPTANCE OF OFFER TO COMPOUND OFFENCES

References No.: .....

To:

.....  
.....  
.....

I refer to the Notice of Offer to Compound Offences bearing the Reference Number ..... and dated .....

2. I accept the offer to compound and enclosed herewith ..... for the sum of Ringgit Malaysia ..... (RM.....) as full settlement of the sum stipulated in paragraph 2 of the Notice of Offer to Compound Offences.

Signature : .....

Name (in capital letter) : .....

Identity Card Number : .....

Address : .....

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Date : .....

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Dato' Seri S. Subramaniam  
*Minister of Health*

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