SCOTTISH STATUTORY INSTRUMENTS

2004 No. 133

FOOD

The Jam and Similar Products (Scotland) Regulations 2004

Made - - - -	*17th March 2004*
Laid before the Scottish Parliament - - - -	*18th March 2004*
Coming into force - -	*28th April 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 6(4), 16(1)(e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990 [M1] and of all other powers enabling them in that behalf, and having had regard in accordance with section 48(4A) [M2] of that Act to relevant advice given by the Food Standards Agency and after consultation in accordance with section 48(4) and (4B) [M3] of that Act, hereby make the following Regulations:

Marginal Citations

M1 1990 c. 16; section 6(4) was amended by the Deregulation and Contracting Out Act 1994 (c. 40), **Schedule 9**, paragraph 6 and by the Food Standards Act 1999 (c. 28) ("the 1999 Act"), Schedule 5, paragraph 10(3); sections 16(1) and 48(1) were amended by the 1999 Act, Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was amended by the 1999 Act, Schedule 6; amendments made by Schedule 5 of the 1999 Act shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c. 46) (" the 1998 Act") by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

M2 Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

M3 Section 48(4B) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Jam and Similar Products (Scotland) Regulations 2004 and shall come into force on 28th April 2004.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Food Safety Act 1990;

F1 . . . . . .

"aqueous extract of fruit" means the aqueous extract of fruit which, subject to the losses necessarily occurring in proper manufacturing, contains all the water-soluble constituents of the fruit used;

"authorised treatment" means a treatment described in paragraphs 2 to 4 of Schedule 2;

"catering establishment" means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

"chestnut" means the fruit of the sweet chestnut tree (Castanea sativa);

"Directive 2001/113" means Council Directive 2001/113/EC[F2] relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption;

F3 . . . . . .

F4 . . . . . .

F5 . . . . . .

"fruit" means fresh, sound fruit, free from deterioration, containing all of its essential constituents and sufficiently ripe for use, after cleaning, removal of blemishes, topping and tailing, and includes ginger, tomatoes, the edible parts of rhubarb stalks, carrots, sweet potatoes, cucumbers, pumpkins, melons and watermelons;

"fruit pulp" means the edible part of the whole fruit, with or without peel, skin, seeds or pips, as appropriate, which may have been sliced or crushed but which has not been reduced to a purée;

"fruit purée" means the edible part of the whole fruit, with or without peel, skin, seeds or pips, as appropriate, which has been reduced to a purée by being sieved or subjected to a similar process;

"ginger" means the edible root of the ginger plant in a fresh or preserved state and may be dried or preserved in syrup;

[[F6]"ingredient" has the same meaning as Article 2(2)(f) of Regulation (EU) No 1169/2011;**]**

[[F6]"labelling" has the same meaning as Article 2(2)(j) of Regulation (EU) No 1169/2011;**]**

"permitted additional ingredient" means an ingredient described in paragraph 1 of Schedule 2, and which is used as specified in that paragraph;

[[F7]"permitted sweetener" means any sweetener in so far as its use is permitted in specified jam or similar product by **[**[F8]Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives**];]**

"preparation" includes manufacture and any form of processing or treatment and "prepared" shall be construed accordingly;

[[F9]"Regulation (EU) No 1169/2011" means Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods;**]**

"reserved description" as regards any specified jam or similar product means any description specified in relation to that product in column 1 of Schedule 1 as read with the Notes to that Schedule;

"sell" includes offer or expose for sale and have in possession for sale, and "sale" and "sold" shall be construed accordingly;

"specified jam or similar product" means, subject to paragraph (2), any food specified in column 2 of Schedule 1 as read with the Notes relating to that Schedule;

"sugar" means–

(a) sugar as defined in Council Directive 2001/111/EC[F10] relating to certain sugars intended for human consumption;

(b) fructose syrup;

(c) sugars extracted from fruit; or

(d) brown sugar,

or any combination thereof;

"ultimate consumer" means any person who buys otherwise than–

(a) for the purpose of resale;

(b) for the purposes of a catering establishment; or

(c) for the purposes of a manufacturing business; and

"vine fruits" means muscatels, raisins, sultanas or currants.

(2) A food described in column 2 of items 1 to 7 of Schedule 1 is not a specified jam or similar product if–

(a) it contains any additional ingredient other than a permitted additional ingredient;

(b) any raw material referred to in paragraphs 2 to 4 of Schedule 2 used in the preparation of that food has been subjected to any treatment other than an authorised treatment.

(3) Any other expression used both in these Regulations and in Directive 2001/113 has the same meaning in these Regulations as in that Directive.

F1 Words in reg. 2(1) omitted (28.3.2019) by virtue of The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(2)(a)**

F2 O.J. No. L 10, 12.1.02, p.67.

F3 Words in reg. 2(1) omitted (1.7.2013) by virtue of The European Union (Amendments in respect of the Accession of Croatia) (Scotland) Regulations 2013 (S.S.I. 2013/177), reg. 1(1), **Sch. para. 16(a)**

F4 Words in reg. 2(1) omitted (22.2.2022) by virtue of The Food (Withdrawal of Recognition) (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/477), regs. 1(1), **3(2)(a)**

F5 Words in reg. 2(1) omitted (22.2.2022) by virtue of The Food (Withdrawal of Recognition) (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/477), regs. 1(1), **3(2)(b)**

F6 Words in reg. 2(1) inserted (28.3.2019) by The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(2)(b)**

F7 Words in reg. 2(1) substituted (20.1.2010) by The Food Additives (Scotland) Regulations 2009 (S.S.I. 2009/436), regs. 1(1), **18(5)(a)**

F8 Words in reg. 2(1) substituted (31.10.2013) by The Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013 (S.S.I. 2013/266), regs. 1, **18(2)**

F9 Words in reg. 2(1) inserted (28.3.2019) by The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(2)(c)**

F10 O.J. No. L 10, 12.1.02, p.53.

Scope of the Regulations

3.—(1) Subject to **[**[F11]paragraph (2),**]** these Regulations apply to specified jam or similar products, intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment.

(2) These Regulations do not apply to any specified jam or similar product intended for the manufacture of fine bakery wares, pastries or biscuits.

F12(3) . . . . . .

F11 Words in reg. 3(1) substituted (22.2.2022) by The Food (Withdrawal of Recognition) (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/477), regs. 1(1), **3(3)(a)**

F12 Reg. 3(3) omitted (22.2.2022) by virtue of The Food (Withdrawal of Recognition) (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/477), regs. 1(1), **3(3)(b)**

Reserved descriptions

4. No person shall sell any food with a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless–

(a) such food is the specified jam or similar product to which the reserved description relates;

(b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food; or

(c) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not and does not contain a specified jam or similar product.

Labelling and description of specified jam or similar products

5.—(1) F13... No person shall sell any specified jam or similar product unless it is marked or labelled with the following particulars–

(a) the reserved description of the product;

(b) where any specified jam or similar product has a residual sulphur dioxide content of more than 10 milligrams per kilogram then, in addition to any particulars required to be identified in a list of ingredients by **[**F14Regulation (EU) No 1169/2011**]**, that residual content shall be identified in the list of ingredients according to the percentage by weight of the residue in the product as "sulphur dioxide".

(2) F15... No person shall sell any product specified at items 1 to 7 of Schedule 1 unless it is marked or labelled with the following particulars–

(a) in the case–

(i) of a product prepared from a single kind of fruit, an indication of that kind of fruit;

(ii) of a product prepared from two kinds of fruit, an indication of those kinds of fruit in descending order of the weight of the fruit, fruit pulp, fruit purée, fruit juice, fruit peel or aqueous extract of fruit used in the preparation of the product; and

(iii) of a product prepared from three or more kinds of fruit, an indication of those kinds of fruit in descending order of weight of fruit, fruit pulp, fruit purée, fruit juice, fruit peel or aqueous extract of fruit used in the preparation of the product or alternatively the words "mixed fruit" or similar wording or the number of kinds of fruit used in the preparation of the product;

(b) an indication of the proportion of fruit used in the preparation of the product in the form "prepared with Xg of fruit per 100 g", there being inserted in place of " X " the quantity in grams of fruit used or fruit from which the fruit pulp, fruit purée, fruit juice, fruit peel and aqueous extract of fruit used for every hundred grams of the finished product are derived; and

(c) except where a nutritional claim as regards sugar content is made and the product is marked or labelled as regards sugar content with the prescribed nutrition labelling as set out in **[**F16Articles 30 to 35 of Regulation (EU) No 1169/2011**]**, an indication of the total sugar content in the form "total sugar content: Yg per 100 g", there being inserted in place of " Y " the content in grams of soluble dry matter in each hundred grams of the product, determined by refractometer at 20°C, the content shown being accurate to +/- 3 refractometric degrees.

(3) The particulars with which the product is required to be marked or labelled in accordance with paragraph (2)(b) and (c) shall appear in the labelling of the food in the same field of vision as the name of the food and in clearly visible characters.

F13 Words in reg. 5(1) omitted (28.3.2019) by virtue of The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(3)(a)**

F14 Words in reg. 5(1)(b) substituted (28.3.2019) by The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(3)(b)**

F15 Words in reg. 5(2) omitted (28.3.2019) by virtue of The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(4)(a)**

F16 Words in reg. 5(2)(c) substituted (28.3.2019) by The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(4)(b)**

Manner of marking or labelling

F17 6. . . . . . .

F17 Reg. 6 omitted (28.3.2019) by virtue of The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **7(5)**

Penalties and enforcement

7.—(1) Any person who contravenes or fails to comply with regulations 4 or 5 of these Regulations shall be guilty of an offence.

(2) Any person found guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each food authority shall enforce and execute these Regulations in its area.

Defence in relation to exports

F18 8. . . . . . .

F18 Reg. 8 revoked (1.1.2006) by The Official Feed and Food Controls (Scotland) Regulations 2005 (S.S.I. 2005/616), reg. 1(b), **Sch. 6**

[F19Transitional provisions

9.—(1) A product which was, or would have been, outside the scope of these Regulations by virtue of regulation 3(3), as it had effect immediately before 22 February 2022, is not subject to these Regulations until 1 October 2022.**]**