Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Honey (Scotland) Regulations 2003. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2003 No. 569

FOOD

The Honey (Scotland) Regulations 2003

Made - - - -	*26th November 2003*
Laid before the Scottish Parliament - - - -	*27th November 2003*
Coming into force - -	*18th December 2003*

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 [F1] and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A) [F2] of that Act to relevant advice given by the Food Standards Agency, and after consultation in accordance with section 48(4) and (4B) [F3] of the said Act, hereby make the following Regulations:

F1 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.

F2 Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

F3 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 Honey (Scotland) Regulations 2003 and shall come into force on 18th December 2003.

(2) These Regulations shall extend to Scotland only.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Food Safety Act 1990;

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"brood" means any immature stage of the honeybee including the egg, larva and pupa and any honeybee which has not emerged from its cell in a honeycomb, and "broodless" shall be construed accordingly;

"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;

"Directive 2001/110" means Council Directive 2001/110/EC relating to honey [F4];

"EEA Agreement" means the Agreement on the European Economic Area [F5] signed at Oporto on 2nd May 1992 as adjusted by the Protocol [F6] signed at Brussels on 17th March 1993;

"EEA State" means a State which is a Contracting Party to the EEA Agreement;

"honey" means the natural sweet substance produced by Apis mellifera bees from the nectar of plants or from secretions of living parts of plants or excretions of plant–sucking insects on the living parts of plants which the bees collect, transform by combining with specific substances of their own, deposit, dehydrate, store and leave in honeycombs to ripen and mature;

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

"the 1996 Regulations" means the Food Labelling Regulations 1996 [F7];

"reserved description", as regards any specified honey product means any description specified in relation to that product in column 1 of Schedule 1 (as read with the Notes relating to that Schedule);

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

"specified honey product", subject to paragraph (2) means any food specified in column 2 of Schedule 1; and

"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.

(2) A food described in Column 2 of Schedule 1, is not a specified honey product unless–

(a) it meets the relevant specifications contained in Schedule 2 (as read with the notes relating to that Schedule); and

(b) no other ingredient has been added to it and it is as far as possible free from organic or inorganic matters foreign to its composition.

(3) Any other expression used in both these Regulations and Directive 2001/110 has the same meaning in these Regulations as that Directive.

F4 O.J. No. L 10, 12.1.02, p.47, as adopted by EEA Joint Committee Decision 99/02 (O.J. No. L 298, 31.10.02, p.10).

F5 O.J. No. L 1, 3.1.94, p.1.

F6 O.J. No. L 1, 3.1.94, p.571.

F7 S.I. 1996/1499 to which there are amendments not relevant to these Regulations.

Scope

3. With the exception of regulation 6, these regulations apply to specified honey products intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment.

Reserved descriptions

4. No person shall sell to the ultimate consumer or to a catering establishment 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 honey 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 honey product.

Labelling and description of specified honey products

5.—(1) Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell to the ultimate consumer or to a catering establishment any specified honey product unless it is marked or labelled with–

(a) a reserved description of the product;

(b) in the case of baker's honey, the term "intended for cooking only" on the label in close proximity to the reserved description;

(c) the country or countries of origin where the honey has been harvested save that in the case of honey originating in more than one Member State or third country the country of origin may be replaced with, as appropriate, the terms–

(i) "blend of EC honeys";

(ii) "blend of non–EC honeys"; or

(iii) "blend of EC and non–EC honeys".

(2) Where, pursuant to note 2 of Schedule 1, the description "honey" has been used in the name of a compound foodstuff, no person shall sell such a compound foodstuff unless the list of ingredients includes the term "baker's honey".

Sale of filtered honey or baker's honey in bulk containers or packs

6.—(1) No person shall sell any filtered honey or baker's honey in bulk containers or packs unless such bulk containers or packs are labelled with the reserved description of the product and any trade documents clearly indicate the reserved description of the product.

(2) For the purposes of paragraph (1) "trade documents" includes all the documents relating to the sale, transportation, storage or delivery of the product.

Manner of marking or labelling

7. Regulations 35, 36(1) and (5) and 38 of the 1996 Regulations (which relate to the manner of marking or labelling of food) shall apply to the particulars with which a specified honey product is required to be marked or labelled by regulation 5 of these Regulations as if they were particulars with which a food is required to be marked or labelled by the 1996 Regulations.

Penalties and enforcement

8.—(1) Any person who contravenes regulations 4, 5 or 6 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

9. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove–

(a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that the food complies with that legislation; and

(b) in the case of export to an EEA State, that that legislation complies with the provisions of Directive 2001/110/EC.

Application of various provisions of the Act

10. The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or any Part thereof shall be construed as a reference to these Regulations–

(a) section 2 (extended meaning of sale etc.);

(b) section 3 (presumptions that food intended for human consumption);

(c) section 20 (offences due to fault of another person);

(d) section 21 (defence of due diligence), as it applies for the purposes of sections 8, 14 or 15 of the Act;

(e) section 22 (defence of publication in the course of a business);

(f) section 30(8) (which relates to documentary evidence);

(g) section 33 (obstruction etc. of officers);

(h) section 35(1) to (3) (punishment of offences), insofar as it relates to offences under section 33(1) or (2) as applied by paragraph (g);

(i) section 36 (offences by bodies corporate);

(j) section 36A (offences by Scottish partnerships); and

(k) section 44 (protection of officers acting in good faith).

Transitional provisions

11. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that–

(a) the food concerned was marked or labelled before 1st August 2004; and

(b) the matters constituting the alleged offence would not have constituted an offence under the Honey (Scotland) Regulations 1976 [F8] if those Regulations had been in force when the food was marked or labelled.

F8 S.I. 1976/1818 as amended by S.I. 1985/1068, 1990/2625, 1991/1476, 1992/2596 and 1996/1499.

Amendment and revocations

12.—(1) The following entries relating to the Honey (Scotland) Regulations 1976 shall be omitted–

(a) in the Food and Drugs (Scotland) Act 1956 (Transfer of Enforcement Function) Regulations 1983 [F9], in Schedule 1;

(b) in the Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985 [F10], in Schedules 1 and 2;

(c) in the Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990 [F11], in Schedule 1, Part I, Schedule 2, Schedule 3 and Schedules 5 and 8;

(d) in the Food Safety (Exports) Regulations 1991 [F12], in Schedule 2;

(e) in the Food (Forces Exemptions) (Revocations) Regulations 1992 [F13], in the Schedule, Part II; and

(f) in the 1996 Regulations, in Schedule 9.

(2) In the Miscellaneous Food Additives Regulations 1995 [F14], for "Directive 74/409/EEC" in Schedule 6, substitute " Directive 2001/110/EC ".

(3) The Honey (Scotland) Regulations 1976 are hereby revoked.

F9 S.I. 1983/270 to which there are amendments not relevant to these Regulations.
F10 S.I. 1985/1068 to which there are amendments not relevant to these Regulations.
F11 S.I. 1990/2625 to which there are amendments not relevant to these Regulations.
F12 S.I. 1991/1476 to which there are amendments not relevant to these Regulations.
F13 S.I. 1992/2596 to which there are amendments not relevant to these Regulations.
F14 S.I. 1995/3187 to which there are amendments not relevant to these Regulations.

St Andrew's House, Edinburgh
26th November 2003

TOM McCABE
Authorised to sign by the Scottish Ministers