SCOTTISH STATUTORY INSTRUMENTS

# 2003 No. 527

# FOOD

## The Specified Sugar Products (Scotland) Regulations 2003

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| *Made - - - -* | *4th November 2003* |
| *Laid before the Scottish Parliament - - - -* | *6th November 2003* |
| *Coming into force - -* | *28th November 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 that 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 to the 1999 Act shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c. 46) 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 Scotland Act 1998.

**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 Specified Sugar Products (Scotland) Regulations 2003 and shall come into force on 28th November 2003.

(2) These Regulations extend to Scotland only.

### Interpretation

**2.** In these Regulations–

"the Act" means the Food Safety Act 1990;

"candy sugar" means crystalline sugar with crystals having any dimension greater than one centimetre;

"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;

"EEA Agreement" means the Agreement on the European Economic Area [F4] signed at Oporto on 2nd May 1992 as adjusted by the Protocol [F5] signed at Brussels on 17th March 1993;

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

"icing sugar" means fine particles of white sugar or extra-white sugar or mixtures thereof;

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

[F6] ...

"reserved description", as respects any specified sugar product, means any description specified in relation to that product in column 1 of Part I of Schedule 1 (as read with the notes relating to that Part) and the use of any such description in these Regulations shall be construed as meaning the product to which that description relates;

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

"specified sugar product" means any food specified in column 2 of Part I of Schedule 1 (as read with the notes relating to that Part) but does not include any such food in the form of icing sugar, candy sugar or sugar in loaf form;

"sugar in loaf form" means a piece of agglomerated crystalline sugar, usually conically shaped, weighing not less than 250 grammes; 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.

**F4** O.J. No. L 1, 3.1.94, p.1.
**F5** O.J. No. L 1, 3.1.94, p.571.
**F6** Words in reg. 2 omitted (13.12.2014) by virtue of The Food Information (Scotland) Regulations 2014 (S.S.I. 2014/312), reg. 1(2), **sch. 5 para. 8(a)**

### Scope of Regulations

**3.** These Regulations apply to specified sugar 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 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 sugar product to which the reserved description relates;

(b) such derivative, description 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;

(c) such derivative, description 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 sugar product; or

(d) such derivative, description or word is used in a customary name for another food and is not liable to mislead the consumer.

### Labelling and description of specified sugar products

**5.** Without prejudice to the generality of **[**[F7]Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004**]**[F8, as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods**]**, no person shall sell any specified sugar product unless it is marked or labelled with the following particulars:–

(a) a reserved description of the product; and

(b) in the case of sugar solution, invert sugar solution and invert sugar syrup, the dry matter and invert sugar content of the product.

**F7** Words in reg. 5 substituted (13.12.2014) by The Food Information (Scotland) Regulations 2014 (S.S.I. 2014/312), reg. 1(2), **sch. 5 para. 8(b)** (as amended (19.1.2016) by The Food Information (Miscellaneous Amendments) (Scotland) Regulations 2015 (S.S.I. 2015/410), **regs. 1(2)**, 3(10)(a))

**F8** Words in reg. 5 inserted (28.3.2019) by The Food Standards and Hygiene (Miscellaneous Amendments) (Scotland) Regulations 2019 (S.S.I. 2019/33), regs. 1(1), **5(2)**

### Manner of marking or labelling

[F9]**6.** . . . . . .

**F9** Reg. 6 omitted (13.12.2014) by virtue of The Food Information (Scotland) Regulations 2014 (S.S.I. 2014/312), **reg. 1(2)**, **sch. 5 para. 8(c)**

### 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

[F10]**8.** . . . . . .

**F10** 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**

### Application of various provisions of the Food Safety Act 1990

**9.** 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 Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations:–

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

(b) section 3 (presumption 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 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) above;

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

(j) section 36A [F11] (offences by Scottish partnerships); and

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

**F11** Section 36A was inserted by paragraph 16 of Schedule 5 to the 1999 Act.

### Transitional provision

[F12]**10.** . . . . . .

**F12** Reg. 10 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), **5(3)**

### Consequential amendments and revocations

**11.**—(1) The following entries relating to the Specified Sugar Products (Scotland) Regulations 1976 shall be omitted–

(a) in the Food and Drugs (Scotland) Act 1956 (Transfer of Enforcement Functions) Regulations 1983 [F13], in Schedule 1;

(b) in the Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985 [F14], in Schedule 1;

(c) in the Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990 [F15], in Schedule 1, Part I, Schedule 2, Schedule 3, Part II and Schedules 5 and 8;

(d) in the Food Safety (Exports) Regulations 1991 [F16], in Schedule 2;

(e) in the Food (Forces Exemptions) (Revocations) Regulations 1992 [F17], in the Schedule, Part II;

(f) in the Colours in Food Regulations 1995 [F18], in regulation 12(2);

(g) in the Miscellaneous Food Additives Regulations 1995 [F19], in regulation 10(4) and in Schedule 9;

F20(h) . . . . . .

(i) in the Miscellaneous Food Additives (Amendment) Regulations 1999 F21, in regulation 14(1).

(2) The Specified Sugar Products (Scotland) Regulations 1976 and the Specified Sugar Products (Scotland) (Amendment) Regulations 1982 F22 are hereby revoked.

(3) In the Miscellaneous Food Additives Regulations 1995, in Schedule 2, Part B, second table and Schedule 6, for "Directive 73/437/EEC"F23 substitute "Directive 2001/111/EC"F24.

(4) The instruments specified in column 1 of Schedule 2 shall be amended as set out in column 2 of that Schedule.

**F13** S.I. 1983/270 to which there are amendments not relevant to these Regulations.
**F14** S.I. 1985/1068 to which there are amendments not relevant to these Regulations.
**F15** S.I. 1990/2625 to which there are amendments not relevant to these Regulations.
**F16** S.I. 1991/1476 to which there are amendments not relevant to these Regulations.
**F17** S.I. 1992/2596.
**F18** S.I. 1995/3124 to which there are amendments not relevant to these Regulations.
**F19** S.I. 1995/3187 to which there are amendments not relevant to these Regulations.
**F20** Reg. 11(h) revoked (13.12.2014) by The Food Information (Scotland) Regulations 2014 (S.S.I. 2014/312), reg. 1(2), **sch. 4 Pt. 1**
**F21** S.I. 1999/1136.
**F22** S.I. 1982/410.
**F23** O.J. L 356, 27.12.73, p.71.
**F24** O.J. L 10, 12.1.02, p.53.

*TOM McCABE*
St Andrew's House, Edinburgh — Authorised to sign by the Scottish Ministers