STATUTORY RULES OF NORTHERN IRELAND

2018 No. 78

FOOD

The Jam and Similar Products Regulations (Northern Ireland) 2018

Made - - - - 27th March 2018

Coming into operation 23rd April 2018

The Department of Health(**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a) and (e), 16(1) and (2), 25(1) and (3), 26(3), 32(1) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**) and paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Health that it is expedient for any references to the European instruments specified in regulation 2(3) to be construed as references to those instruments as amended from time to time.

In accordance with Article 47(3A) of that Order, it has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**4**) as last amended by Regulation (EC) No 652/2014 of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material(**5**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Jam and Similar Products Regulations (Northern Ireland) 2018 and come into operation on 23rd April 2018.

(**1**) Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I), section1
(**2**) S.I. 1991 No. 762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505
(**3**) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by Section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (2008 c. 7)
(**4**) OJ No L 31, 1.2.2002, p 1
(**5**) OJ No L 189, 27.6.2014, p 1

Interpretation

2.—(1) In these Regulations—

"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 additional ingredient" means an ingredient specified in Schedule 1;

"authorised treatment" means a treatment specified in Schedule 2;

"Directive 2001/111/EC" means Council Directive 2001/111/EC(**6**) relating to certain sugars intended for human consumption as last amended by Regulation (EU) No 1021/2013 of the European Parliament and of the Council amending Council Directives 2001/111 and 2001/113/EC as regards the powers to be conferred on the Commission (**7**);

"Directive 2001/113/EC" means Council Directive 2001/113/EC(**8**) relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption as last amended by Regulation (EU) No 1021/2013 of the European Parliament and of the Council amending Council Directives 2001/111 and 2001/113/EC as regards the powers to be conferred on the Commission;

"EEA State" means a Member State of the European Union, Norway, Iceland and Liechtenstein but not the United Kingdom;

"free circulation" has the same meaning as in Article 24 of the Treaty establishing the European Union;

"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 (as appropriate) the peel, skin, seeds, pips or the like, 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 (as appropriate) the peel, skin, seeds, pips or the like, which has been reduced to a purée by being sieved or by being subjected to a similar process;

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

"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;

"ingredient" has the meaning given in Article 2(2)(f) of Regulation (EU) No 1169/2011(**9**);

"in trade" has the same meaning as in Directive 2001/113/EC;

"labelling" has the meaning given in Article 2(2)(j) of Regulation (EU) No 1169/2011;

"the Order" means the Food Safety (Northern Ireland) Order 1991;

"permitted sweetener" means any sweetener in so far as its use is permitted in a regulated product by Regulation (EC) No 1333/2008(**10**);

(**6**) OJ No L 10, 12.1.2002, p 53
(**7**) OJ No L 287, 29.10.2013, p 1
(**8**) OJ No L 10, 12.1.2002, p 67
(**9**) OJ No L 304, 22.11.2011, p 18
(**10**) OJ No L 354, 31.12.2008, p 16

"regulated product" means a product that is listed in column 1 of Part 1 of Schedule 3 and complies with the requirements for that product set out in the Part of that Schedule specified in the corresponding entry in column 2 of the table;

"Regulation (EC) No 1924/2006" means Regulation (EC) No 1924/2006(**11**) of the European Parliament and of the Council on nutrition and health claims made on foods as last amended by Commission Regulation (EU) No 1047/2012 amending Regulation (EC) No. 1924/2006 with regard to the list of nutrition claims(**12**);

"Regulation (EC) No 1333/2008" means Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives as last amended by Commission Regulation (EU) 2018/97 amending Annex II to Regulation (EC) No 1333/2008 as regards the use of sweeteners in fine bakery wares(**13**);

"Regulation (EU) No 1169/2011" means Regulation (EU) No 1169/2011(**14**) 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 as last amended by Regulation (EU) 2015/2283 of the European Parliament and of the Council on novel foods amending Regulation (EU) No 1169/2011 (**15**);

"sugar" means any of the following—

(a) any sugar as defined in Part A of the Annex to Council Directive 2001/111/EC;

(b) fructose syrup;

(c) sugar extracted from fruit; or

(d) brown sugar.

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

(3) In these Regulations any reference to:

(i) Council Directive 2001/111/EC;

(ii) Council Directive 2001/113/EC;

(iii) Regulation (EC) No 1924/2006;

(iv) Regulation (EC) No 1333/2008; or

(v) Regulation (EU) No 1169/2011

is a reference to that instrument as amended from time to time.

(4) The Interpretation Act (Northern Ireland) 1954(**16**) applies to these regulations as it applies to an Act of the Assembly.

Scope

3.—(1) These Regulations apply to products intended for human consumption, except for any product intended for the manufacture of fine bakery wares, pastries or biscuits.

(**11**) OJ No L 404, 30.12.2006, p 9
(**12**) OJ No L 310, 9.11.2012, p 36
(**13**) OJ No L17, 23.1.2018, p11
(**14**) OJ No L 304, 22.11.2011, p 18-63
(**15**) OJ No L327, 11.12.2015, p1
(**16**) 1954 c.33 (N.I)

(2) These Regulations do not apply to a product traded using a name listed in Part 2 of the table in Part 1 of Schedule 3 that is brought into Northern Ireland from another part of the United Kingdom or an EEA State or from the Republic of Turkey, in which it was lawfully marketed.

Use of a product name

4.—(1) A person who trades in a product that complies with the requirements of a Part of Schedule 3 specified in column 2 of the table in Part 1 of Schedule 3 must use the name of the product listed in the corresponding entry in column 1 of that table, in trade, as the name of the product.

(2) A person must not use a product name listed in column 1 of the table in Part 1 of Schedule 3, in trade, as the name of a product unless the product complies with the requirements for that product specified in the Part of Schedule 3 listed in the corresponding entry in column 2 of that table.

(3) Paragraph (2) does not prevent a product name being used, in trade, in addition to the name of another product if—

(a) the use of the product name in that way is in accordance with practices used to designate the other product; and

(b) the other product cannot be confused with a regulated product.

Indication of kinds of fruits used

5.—(1) A person must not trade in a regulated product unless the product name is supplemented with an indication of the kinds of fruits used to manufacture the product in accordance with paragraphs (2) to (4).

(2) Where a regulated product is manufactured using a single kind of fruit, the product name must be supplemented with an indication of the kind of fruit used to manufacture the product.

(3) Where a regulated product is manufactured from two kinds of fruit, the product name must be supplemented with an indication of those kinds of fruit in descending order of the weight of the raw materials of the fruit used to manufacture the product.

(4) Where a regulated product is manufactured from three or more kinds of fruit, the product name must be supplemented—

(a) with an indication of the kinds of fruit used in descending order of the weight of the raw materials of fruit used to manufacture the product;

(b) with the words “mixed fruit” or similar wording; or

(c) with the number of kinds of fruit used.

Fruit content indication

6.—(1) A person must not trade in a regulated product unless the labelling of the product indicates the fruit content of the product in accordance with paragraphs (2) to (4).

(2) The fruit content must be indicated by including the words “prepared with x g of fruit per 100 g” with the quantity in grams of 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 being inserted in place of the “x”.

(3) If aqueous extracts are used in the manufacture of a regulated product, the fruit content of the finished product must be calculated after deducting the weight of any water used to prepare the aqueous extracts.

(4) The fruit content indication required by paragraph (1), as read with paragraph (2), must appear in the same visual field as the product name and be in clearly visible characters.

Total sugar content indication

7.—(1) A person must not trade in a regulated product unless the labelling of the product indicates the total sugar content of the finished product in accordance with paragraphs (2) to (5).

(2) The total sugar content must be indicated by including the words "total sugar content: x g per 100 g", with the content in grams of soluble solids in each hundred grams of the finished product inserted in place of the 'x'.

(3) The total sugar content of the finished product as indicated on the labelling must be determined by a refractometer at 20°C.

(4) The total sugar content of the finished product as indicated on the labelling must be accurate to ±3 refractometric degrees.

(5) The total sugar content indication required by paragraph (1), as read with paragraph (2), must appear in the same visual field as the product name and be in clearly visible characters.

(6) Paragraph (1) does not apply where a claim as regards the sugar content of a regulated product is made and the product is marked or labelled, as regards its sugar content, with the prescribed nutrition labelling as set out in Articles 30 to 35 of Regulation (EU) No 1169/2011.

Residual sulphur dioxide

8. A person must not trade in a regulated product that is listed in Part 1 of the table in Part 1 of Schedule 3 that has a residual sulphur dioxide content of more than 10 milligrams per kilogram unless, in addition to any particular required to be identified in a list of ingredients by Regulation (EU) No 1169/2011, the presence of that residual sulphur dioxide is indicated in the list of ingredients of the product according to the percentage by weight of the residual sulphur dioxide in the product.

Enforcement

9. It is the duty of each district council within its district to enforce these Regulations.

Application and modification of provisions of the Order

10.—(1) The provisions of the Order specified in column 1 of the table in Schedule 4 apply with the modifications specified in column 2 of that table for the purposes of these Regulations.

(2) Paragraph 1 is without prejudice to the application of the Order to these Regulations for the purposes other than those specified in paragraph (1).

Revocation

11. The Jam and Similar Products Regulations (Northern Ireland) 2003(**17**) are revoked.

(**17**) S.R. 2003 No. 519