STATUTORY RULES OF NORTHERN IRELAND

2003 No. 519

FOOD

Jam and Similar Products Regulations (Northern Ireland) 2003

Made - - - -	*8th December 2003*
Coming into operation	*19th January 2004*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 15(1)(e), 16(1), 25(1) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**) and of all other powers enabling it in that behalf, having had regard in accordance with Article 47(3A) of the said Order to relevant advice given by the Food Standards Agency and after consultation both 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(**3**) and in accordance with Article 47(3) and (3B) of the said Order, hereby makes the following Regulations: –

Citation and commencement

1. These Regulations may be cited as the Jam and Similar Products Regulations (Northern Ireland) 2003 and shall come into operation on 19th January 2004.

Interpretation

2.—(1) In these Regulations –

"the 1996 Regulations" means the Food Labelling Regulations (Northern Ireland) 1996(**4**);

"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;

"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;

(**1**) Formerly the Department of Health and Social Services; *see*S.I.1999/283 (N.I. 1), Article 3
(**2**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28
(**3**) O.J. No. L31, 1.2.2002, p. 1
(**4**) S.R.1996 No.383; the relevant amending Regulations are S.R.1998 No.253, S.R.1999 Nos.143, 244 and 286, S.R.2000 Nos.189 and 303, S.R. 2001 No. 45 and S.R. 2003 No. 159

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

"Directive 2001/113" means Council Directive 2001/113/EC(**5**) relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption;

"EEA Agreement" means the Agreement on the European Economic Area(**6**) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(**7**) signed at Brussels on 17th March 1993;

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

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

"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;

"ingredient" has the meaning assigned to it by the 1996 Regulations;

"labelling" has the meaning assigned to it by the 1996 Regulations;

"Member State" means a State which is a member of the European Community;

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

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

"permitted sweetener" means any sweetener in so far as its use is permitted in the specified jam or similar product by the Sweeteners in Food Regulations (Northern Ireland) 1996(**8**);

"preparation" includes manufacture and any form of processing or treatment;

"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 relating to that Schedule;

"sell" includes offer or expose for sale and includes have in possession for sale;

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

"sugars" means a sugar product defined in the Annex to Council Directive 2001/111/EC relating to certain sugars intended for human consumption(**9**), fructose syrup, sugar extracted from fruit or 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

(**5**) O.J. No. L10, 12.1.2002, p. 67
(**6**) O.J. No. L1, 3.1.94, p. 1
(**7**) O.J. No. L1, 3.1.94, p. 571
(**8**) S.R. 1996 No. 48, as amended by S.R.1997 No. 257, S.R. 1999 No. 216 and S.R. 2002 No. 39
(**9**) O.J. No. L10, 12.1.2002, p. 53

(c) for the purposes of a manufacturing business;

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

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

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

(b) any raw material, to which paragraphs 2 to 4 of Schedule 2 refer, used in the preparation of that food has been subjected to any treatment other than a treatment authorised by those paragraphs.

(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.

Scope of Regulations

3.—(1) Subject to paragraphs (2) and (3), 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.

(3) These Regulations do not apply in respect of any product bearing the description set out at items 8 to 11 of column 1 of Schedule 1 which is –

(a) brought into Northern Ireland from –

(i) an EEA State (other than the United Kingdom), or

(ii) another part of the United Kingdom, in which it was lawfully sold, having been lawfully produced in an EEA State; or

(b) brought into Northern Ireland from –

(i) a Member State (other than the United Kingdom), or

(ii) another part of the United Kingdom, in which it was lawfully sold, having been lawfully produced in a Member State, or in which it was in free circulation and lawfully sold.

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 is used in addition to the name of the food and in accordance with practices used to designate other products which cannot be confused with those defined in column 2 of Schedule 1.

Labelling and description of specified jam products

5.—(1) Without prejudice to the generality of Part II of the 1996 Regulations, 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 particular required to be identified in a list of ingredients by the 1996 Regulations, 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) Without prejudice to the generality of Part II of the 1996 Regulations, 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 type of fruit, an indication of that type of fruit;

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

(iii) of a product prepared from three or more types of fruit, an indication of those types of fruit in descending order of the weight of the fruit pulp, fruit purée, fruit juice, fruit peel and aqueous extract of fruit used in the preparation of the product or alternatively the words "mixed fruit" or similar wording or the number of types 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 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 Schedule 7 to the 1996 Regulations, 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 solids 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 product and in clearly visible characters.

Manner of marking or labelling

6. 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 jam or similar product is required to be marked or labelled by regulation 5 as if they were particulars with which a food is required to be marked or labelled by the 1996 Regulations.

Penalties and enforcement

7.—(1) Any person who contravenes regulation 4 or 5 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Each district council shall enforce and execute these Regulations within its district.

Defence in relation to exports

8. In any proceedings for an offence under these Regulations it shall be a defence for the person accused 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 the legislation complies with the provisions of Directive 2001/113/EC of the European Parliament and the Council relating to fruit, jams, jellies and marmalades and sweetened chestnut purée intended for human consumption(**10**).

Application of various provisions of the Order

9. The following provisions of the Order shall apply for the purposes of these Regulations and any reference in those provisions to the Order shall be construed for the purposes of these Regulations as a reference to these Regulations –

(a) Articles 2(4) and 3 (extended meaning of sale etc.);

(b) Article 4 (presumptions that food intended for human consumption);

(c) Article 19 (offences due to fault of another person);

(d) Article 20 (defence of due diligence) as it applies for the purposes of Article 7, 13 or 14 of the Order;

(e) Article 21 (defence of publication in the course of a business);

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

(g) Article 34 (obstruction, etc., of officers);

(h) Article 36 (punishment of offences) in so far as it relates to offences under Article 34(1) and (2) as applied by paragraph (g).

Amendments and revocations

10.—(1) The Jam and Similar Products Regulations (Northern Ireland) 1982(**11**) and the Jam and Similar Products (Amendment) Regulations (Northern Ireland) 1990(**12**) are hereby revoked.

(2) The following entries relating to the Jam and Similar Products Regulations (Northern Ireland) 1982 shall be omitted –

(a) in the Food (Revision of Penalties and Mode of Trial) Regulations (Northern Ireland) 1987(**13**), in Schedule 1;

(b) in the Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991(**14**), in Schedule 1, Part I and in Schedules 3 and 5;

(c) in the Food Safety (Exports) Regulations (Northern Ireland) 1991(**15**), in the Schedule;

(d) in the Food (Forces Exemptions) (Revocations) Regulations (Northern Ireland) 1992(**16**), in the Schedule;

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

(3) In the Miscellaneous Food Additives Regulations (Northern Ireland) 1996(**17**), in Schedules 2, 3 and 7, for "Directive 79/693/EEC" in each place where it appears there is substituted "Directive

(**10**) O.J. No. L10, 12.1.2002, p. 67, as adopted by the EEA Joint Committee Decision No. 99/2002 (O.J. No. L298, 31.10.2002, p. 10)
(**11**) S.R. 1982 No. 105
(**12**) S.R. 1990 No. 388
(**13**) S.R. 1987 No. 38
(**14**) S.R. 1991 No. 203
(**15**) S.R. 1991 No. 344
(**16**) S.R. 1992 No. 464
(**17**) S.R. 1996 No. 50