STATUTORY RULES OF NORTHERN IRELAND

2003 No. 305

FOOD

Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2003

Made - - - -	*12th June 2003*
Coming into operation	*21st July 2003*

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 Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2003 and shall come into operation on 21st July 2003.

Interpretation

2.—(1) In these Regulations –

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

"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;

"designated product" means, subject to paragraph (2), any food specified in Column 2 of Schedule 1;

(**1**) Formerly the Department of Health and Social Services; see S.I.1999/283 (N.I. 1), Article 3
(**2**) SI 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

"Directive 95/2/EC" means Directive 95/2/EC of the European Parliament and of the Council on food additives other than colours and sweeteners(**5**);

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

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

"reserved description", as respects any designated product, means any description specified in relation to that product in Column 1 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) Notwithstanding the fact that a food is specified in Column 2 of Schedule 1, it will only be treated as a "designated product" for the purposes of these Regulations if –

(a) it has been prepared from any fruit material described in Schedule 2 either with or without any other raw material listed in that Schedule;

(b) where it contains any additional ingredient, that ingredient is authorised for the food in question by Schedule 3;

(c) being a food bearing the reserved description "fruit juice", "concentrated fruit juice", "fruit juice from concentrate" or "dehydrated or powdered fruit juice", it has not been prepared by adding to it –

(i) both sugars and lemon juice (whether concentrated or not), or

(ii) both sugars and acidifying agents as permitted by Directive 95/2/EC;

(d) where it has been prepared by using any treatment or additional substance, that treatment or substance is specified in Schedule 4; and

(e) being a food bearing the reserved description "fruit nectar", it contains the minimum juice or purée content specified in Schedule 5 read together with the Note to that Schedule.

Scope of Regulations

3. Subject to regulation 5(g), these Regulations apply in relation to designated 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 designated 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 designated product.

(**5**) O.J. No. L61, 18.3.1995, p. 1; as last amended by Directive 98/72/EC (O.J. No. L295, 4.11.1998, p. 18)
(**6**) O.J. No. L1, 3.1.94, p. 1
(**7**) O.J. No. L1, 3.1.94, p. 571

Labelling and description of designated products

5. Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell any designated product unless –

(a) subject to paragraph (d)(i), it is marked or labelled with the reserved description for the product;

(b) in the case of a fruit juice, a concentrated fruit juice, a fruit juice from concentrate or a dehydrated or powdered fruit juice which has been sweetened by the addition of sugars, there is added to the reserved description for that product "sweetened" or "with added sugar", and such description or other name is followed by an indication (calculated as dry matter, and expressed in grams per litre) of the maximum quantity of sugar added;

(c) in the case of a fruit juice, a concentrated fruit juice or a fruit juice from concentrate, to which there has been added pulp or cells other than, or in excess of, the pulp or cells originally extracted from that product, its labelling includes an indication of such addition;

(d) in the case of –

(i) a mixture of fruit juice and fruit juice from concentrate and which is marked or labelled with the single reserved description "fruit juice" (or such other description as, in accordance with the conditions which preface Column 1 (reserved descriptions) of Schedule 1, is required in place of the description "fruit juice"), or

(ii) a fruit nectar obtained partly from one or more concentrated products,

its labelling bears the words "partially made from concentrate" or, as the case may be, "partially made from concentrates", such words to appear close to the reserved description, in letters that are clearly visible and easily distinguished from the background against which they appear;

(e) in the case of a fruit nectar obtained wholly from one or more concentrated products, its labelling bears the words "made with concentrate" or, as the case may be, "made with concentrates", such words to appear close to the reserved description, in letters that are clearly visible and easily distinguished from the background against which they appear;

(f) in the case of a fruit nectar, its labelling bears an indication of the minimum amount of fruit juice, or fruit purée, or mixture of fruit juice and fruit purée, that it contains, with the words "fruit content :[x] % minimum" (there being substituted for "[x]" the appropriate figure) appearing in the same field of vision as the reserved description; and

(g) in the case of a concentrated fruit juice not intended for delivery to the final consumer, it bears an indication on its packaging, on a label attached to its packaging, or in an accompanying document, of the presence and quantity in it of any –

(i) added sugars,

(ii) added lemon juice, or

(iii) acidifying agents as permitted by Directive 95/2/EC.

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 designated product is required to be marked or labelled by regulation 5 as if they were particulars with which 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 (other than an EEA State) 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 Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption(**8**).

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).

Consequential amendments and revocations

10. (1) (a) In the Colours in Food Regulations (Northern Ireland) 1996(**9**), in item 17 of Schedule 2, for "Directive 93/77/EEC" there shall be substituted "Directive 2001/112/EC";

(b) in the Miscellaneous Food Additives Regulations (Northern Ireland) 1996(**10**), in Schedule 7 –

(i) for "Fruit juices and nectars as defined in Directive 93/77/EEC" there shall be substituted "Fruit juices and nectars as defined in Directive 2001/112/EC";

(ii) for "Pineapple juice as defined in Directive 93/77/EEC" there shall be substituted "Pineapple juice as defined in Directive 2001/112/EC";

(iii) for "Nectars as defined in Directive 93/77/EEC" there shall be substituted "Nectars as defined in Directive 2001/112/EC";

(**8**) O.J. No. L10, 12.1.2002, p. 58, as adopted by EEA Joint Committee Decision 99/2002 (O.J. No. L298, 31.10.2002, p. 10)
(**9**) S.R. 1996 No. 49, to which there are amendments not relevant to these Regulations
(**10**) S.R. 1996 No. 50; the relevant amending Regulations are S.R.1999 No. 244

(iv) for "Grape juice as defined in Directive 93/77/EEC" there shall be substituted "Grape juice as defined in Directive 2001/112/EC";

(v) for "Fruit juices as defined in Directive 93/77/EEC" there shall be substituted "Fruit juices as defined in Directive 2001/112/EC".

(2) In the provisions of the Regulations specified in paragraph (3) the entries relating to the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 1977(**11**) shall be deleted.

(3) The provisions are –

(a) Schedule 1 to the Food (Revision of Penalties and Mode of Trial) Regulations (Northern Ireland) 1987(**12**);

(b) Part 1 of Schedule 1, and Schedules 2, 3 and 5 to the Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991(**13**);

(c) the Schedule to the Food Safety (Exports) Regulations (Northern Ireland) 1991(**14**);

(d) the Schedule to the Food (Forces Exemptions) (Revocations) Regulations (Northern Ireland) 1992(**15**);

(e) Schedule 9 to the Miscellaneous Food Additives Regulations (Northern Ireland) 1996.

(4) The following Regulations are hereby revoked –

(a) the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 1977;

(b) the Fruit Juices and Fruit Nectars (Amendment) Regulations (Northern Ireland) 1983(**16**);

(c) the Fruit Juices and Fruit Nectars (Amendment) Regulations (Northern Ireland) 1991(**17**);

(d) the Fruit Juices and Fruit Nectars (Amendment) Regulations (Northern Ireland) 1995(**18**).

Transitional provision

11. In any proceedings for an offence under regulation 7 it shall be a defence for the accused to prove that –

(a) the food concerned was marked or labelled before 12th July 2004; and

(b) the matters constituting the alleged offence would not have constituted an offence under the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 1977 as they stood immediately before the date of coming into operation of these Regulations.

(**11**) S.R. 1977 No. 182, as amended by S.R. 1983 No. 48, S.R. 1989 No. 152, S.R. 1991 Nos. 203, 251, and 344, S.R. 1992 No. 264, S.R. 1995 No. 106, S.R. 1996 Nos. 53 and 383 and S.R. 1997 No. 340
(**12**) S.R. 1987 No. 38
(**13**) S.R. 1991 No. 203
(**14**) S.R. 1991 No. 344
(**15**) S.R. 1992 No. 464
(**16**) S.R.1983 No. 48
(**17**) S.R.1991 No. 251
(**18**) S.R.1995 No. 106