
STATUTORY INSTRUMENTS

2003 No.

FOOD, ENGLAND

The Fruit Juices and Fruit Nectars (England) Regulations

2003

Made - - - - 2003

Laid before Parliament 2003

Coming into force 12th July 2003

The Secretary of State, in exercise of the powers conferred on him by sections 16(1)(e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990 (a) and now vested in him(b), and having had regard in accordance with section 48(4A) of that Act 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(c) and in accordance with section 48(4) and (4B) of that Act, makes the following Regulations:

Title, commencement and extent

1. These Regulations –

- (a) may be cited as the Fruit Juices and Fruit Nectars (England) Regulations 2003;

- (b) shall come into force on 12th July 2003; and
- (c) shall extend to England only.

Interpretation

2.-(1) In these Regulations –

“the Act” means the Food Safety Act 1990;

“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;

“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^(a);

“EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area^(b) signed at Oporto on 2nd May 1992 as adjusted by the Protocol^(c) signed at Brussels on 17th March 1993;

“food authority” does not include –

- (a) the council of a district in a non-metropolitan county except where the county functions have been transferred to that council pursuant to a structural change; or
- (b) the appropriate Treasurer referred to in section 5(1)(c) of

the Act (which deals with the Inner Temple and the Middle Temple);

“reserved description”, as respects any designated product, means any description specified in relation to that product in Column 1 of Schedule 1;

“the 1996 Regulations” means the Food Labelling Regulations 1996(a);
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 a raw material listed in Schedule 2;
- (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.

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.

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 the word “sweetened” or the words “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 –
 - (i) on its packaging,
 - (ii) on a label attached to its packaging, or
 - (iii) in an accompanying document,of the presence and quantity in it of any –

- (iv) added sugars,
- (v) added lemon juice, or
- (vi) 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 of these Regulations as if they were particulars with which food is required to be marked or labelled by the 1996 Regulations.

Penalties and enforcement

7.-(1) If any person contravenes regulation 4 or 5 he 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 food authority shall enforce and execute these Regulations in its area.

Defence in relation to exports

8. 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 (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 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(a).

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(1) (obstruction etc. of officers);
- (h) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection 1(b) above” shall be deemed to be a reference to any such requirement as is mentioned in section 33(1)(b) as applied by sub-paragraph (g);
- (i) section 35(1) (punishment of offences), insofar as it relates to offences under section 33(1) as applied by sub-paragraph (g);
- (j) section 35(2) and (3), insofar as it relates to offences under

section 33(2) as applied by sub-paragraph (h);

(k) section 36 (offences by bodies corporate); and

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

Amendments and revocations

10.-(1)(a) In the Colours in Food Regulations 1995^(a) (insofar as they extend to England) in item 17 of Schedule 2 for the words “Directive 93/77/EEC^(b)” there shall be substituted the words “Council Directive 2001/112/EC”; and

(b) in the Miscellaneous Food Additives Regulations 1995^(c) (insofar as they extend to England) in Schedule 7 –

(i) for the words “Fruit juices and nectars as defined in Directive 93/77/EEC” there shall be substituted the words “Fruit juices and nectars as defined in Council Directive 2001/112/EC”,

(ii) for the words “Pineapple juice as defined in Directive 93/77/EEC” there shall be substituted the words “Pineapple juice as defined in Council Directive 2001/112/EC”,

(iii) for the words “Nectars as defined in Directive 93/77/EEC” there shall be substituted the words “Nectars as defined in Council Directive 2001/112/EC”,

(iv) for the words “Grape juice as defined in Directive 93/77/EEC” there shall be substituted the words “Grape juice as defined in Council Directive 2001/112/EC”, and

(v) for the words “Fruit juices as defined in Directive 93/77/EEC” there shall be substituted the words “Fruit juices as defined in Council Directive 2001/112/EC”.

(2) In the provisions of the Regulations specified in paragraph (3) (in each

case insofar as they extend to England) the entries relating to the Fruit Juices and Fruit Nectars Regulations 1977^(a) are deleted.

(3) The provisions are –

- (a) Schedule 1 to the Food (Revision of Penalties) Regulations 1982^(b);
- (b) Part I of the Schedule to the Food (Revision of Penalties) Regulations 1985^(c);
- (c) Part I of Schedule 1, Schedule 2, Part I of Schedule 3, Schedule 6 and Schedule 12 to the Food Safety Act 1990 (Consequential Provisions) (England and Wales) Order 1990^(d);
- (d) Part I of Schedule 1 to the Food Safety (Exports) Regulations 1991^(e);
- (e) Part I of the Schedule to the Food (Forces Exemptions) (Revocations) Regulations 1992^(f); and
- (f) Schedule 9 to the Miscellaneous Food Additives Regulations 1995.

(4) The following Regulations are revoked (insofar as they extend to England) –

- (a) the Fruit Juices and Fruit Nectars Regulations 1977;
- (b) the Fruit Juices and Fruit Nectars (Amendment) Regulations 1982^(g);
- (c) the Fruit Juices and Fruit Nectars (England, Wales and Scotland) (Amendment) Regulations 1991^(h); and
- (d) the Fruit Juices and Fruit Nectars (England, Wales and Scotland) (Amendment) Regulations 1995^(a).

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 1977 as they stood immediately before the date of coming into force of these Regulations.

Signed by authority of the Secretary of State for Health

Parliamentary Under-Secretary of State,
2003 Department of Health

SCHEDULE 1 Regulation 2

RESERVED DESCRIPTIONS FOR DESIGNATED PRODUCTS

Column 1 Reserved Descriptions	Column 2 Designated Products
<p>In the descriptions listed in items 1 to 5 below –</p> <p>(a) if the product is manufactured from a single kind of fruit the name of that fruit shall be substituted for the word “fruit”;</p> <p>(b) subject to condition (c), if the product is manufactured from two or more kinds of fruit (excluding the use of one or both of lemon juice or concentrated lemon juice where this is in accordance with the authorisation described in paragraph 3 of Schedule []) the reserved description shall be supplemented by the names of the fruits used, in descending order of the volume (calculated as unconcentrated juice or purée) of the juice or purée included from each kind of fruit; and</p> <p>(c) if the product is manufactured from three or more kinds of fruit, then unless its reserved description is supplemented as required by condition (b) it shall, in the alternative, be supplemented by the words “several fruits” or by similar wording, or by the number of the kinds of fruit used.</p> <p>1. Fruit juice</p>	<p>The fermentable but unfermented product obtained from fruit which is sound and ripe, fresh or preserved by chilling, of one or more kinds mixed together, having the characteristic colour, flavour and taste typical of the juice of the fruit from which it comes;</p> <p>in which flavour, pulp and cells from the juice which are separated during processing may be restored to the same juice;</p> <p>in which, in the case of citrus fruits other than limes, the juice must come from the endocarp; and</p>

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Column 1	Column 2
Reserved Descriptions	Designated Products
	<p>in which, in the case of limes, the juice may be obtained from the whole fruit, by suitable production processes whereby the proportion of constituents of the outer part of the fruit is reduced to a minimum.</p>
<p>2. Concentrated fruit juice</p>	<p>The product obtained from fruit juice of one or more kinds by the physical removal of a specific proportion of its water content. Where the product is intended for direct consumption the proportion of water content removed must be at least 50%.</p>
<p>3. Fruit juice from concentrate</p>	<p>The product obtained by replacing, in concentrated fruit juice, water extracted from that juice during concentration, and by restoring the flavours and, if appropriate, pulp and cells lost from the juice but recovered during the process of producing the fruit juice in question or fruit juice of the same kind;</p> <p>in which the water added must display such chemical, microbiological, organoleptic and, if appropriate, other characteristics as will guarantee the essential qualities of the juice; and</p> <p>the product must display organoleptic and analytical characteristics at least equivalent to those of an average type of fruit juice obtained from fruit or fruits of the same kind.</p>
<p>4. Dehydrated or powdered fruit juice</p>	<p>The product obtained from fruit juice of one or more kinds by the physical removal of virtually all of its water content.</p>
<p>5. Fruit nectar</p>	<p>The fermentable but unfermented product obtained by adding water and (in an amount not exceeding 20% of the total weight of the finished product) any one or more of –</p> <ul style="list-style-type: none"> (a) sugars, or (b) sweeteners, or (c) honey, <p>to –</p> <ul style="list-style-type: none"> (i) fruit juice, or (ii) concentrated fruit juice, or (iii) fruit juice from concentrate, or (iv) dehydrated fruit juice, or

Column 1	Column 2
Reserved Descriptions	Designated Products
	<p>(v) powdered fruit juice, or (vi) a fruit purée, or (vii) to any mixture of products in (i) to (vi) above,</p> <p>such product to meet the minimum content requirement (as to fruit juice, fruit purée, or a mixture of such juice and purée) specified in Schedule 4, and where sweeteners are used their use is to be also in accordance with the requirements of Directive 94/35/EC of the European Parliament and of the Council on sweeteners for use in foodstuffs^(a).</p> <p>Where the kind of fruit used is any one or more of apricots or the fruits listed in Part II and III of Schedule 4, the product may be manufactured without the addition of any sugars, sweeteners or honey.</p>

SCHEDULE 2

Regulation

2(2)(a)

PERMITTED RAW MATERIALS IN PREPARATION OF DESIGNATED PRODUCTS

1. Fruit, *of any kind other than tomatoes.*
2. Fruit purée, *being the fermentable but unfermented product obtained by sieving the edible part of whole or peeled fruit without removing the juice.*
3. Concentrated fruit purée, *being the product obtained from fruit purée by the removal of a specific proportion of its water content.*
4. Sugars, *being –*
 - (a) *in the preparation of fruit nectars –*
 - *sugars as defined in Council Directive 2001/111/EC relating to certain sugars intended for human consumption(a);*
 - *fructose syrup;*
 - *sugars derived from fruit;*
 - (b) *in the preparation of fruit juice from concentrate –*
 - *sugars as defined in the said Directive 2001/111/EC;*
 - *fructose syrup;*
 - (c) *in the preparation of fruit juice –*
 - *any sugar permitted in respect of fruit juice from concentrate provided it contains less than 2%*

water.

5. Honey, *being the product defined as “honey” in Council Directive 2001/110/EC relating to honey(a).*
6. Pulp or cells, *being –*
 - *in respect of citrus fruit, the juice sacs obtained from the endocarp;*
 - *in respect of any other fruit, the products obtained from the edible parts of the fruit without removing the juice.*

SCHEDULE 3 Regulation
2(2)(b)

ADDITIONAL INGREDIENTS PERMITTED IN PARTICULAR DESIGNATED PRODUCTS

1. Vitamins and minerals, other than those listed in Schedule 7 to the Miscellaneous Food Additives Regulations 1995(a), may be added to any designated product.
2. In grape juice, salts of tartaric acids may be restored.
3. In fruit juice, concentrated fruit juice, fruit juice from concentrate, and dehydrated or powdered fruit juice, other than any prepared from grapes or pears, sugars may be added –
 - (a) for the purpose of regulating acidic taste, in an amount (expressed as dry matter) not exceeding 15 g per litre of the juice;
 - (b) for the purpose of sweetening, in an amount (expressed as dry matter) not exceeding 150 g per litre of the juice,the total amount of such added sugars for either purpose not to exceed 150 g per litre of the juice.
4. In any designated product, for the purpose of regulating acidic taste –
 - (a) lemon juice, or
 - (b) concentrated lemon juice, or
 - (c) both lemon juice and concentrated lemon juice,(expressed as anhydrous citric acid) may be added, the total amount of such added juice not to exceed 3 g per litre of the product.
5. In any designated product, carbon dioxide may be added.

SCHEDULE 4 Regulation
2(2)(d)

PERMITTED TREATMENTS AND ADDITIONAL SUBSTANCES

Treatments

1. Mechanical extraction processes.
2. The usual physical processes (being those included in that description in Annex I, Part II, point 2, to Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption) and including, in the production of concentrated fruit juice other than that produced from grapes, in-line water extraction, or diffusion, of the edible parts of the fruit.
3. In the production of grape juice where sulfitation of the grapes with sulphur dioxide has been used, desulfitation by physical means, provided that the total quantity in the finished grape juice does not exceed 10 mg per litre of the juice.

Additional substances

4. Pectolytic enzymes.
5. Proteolytic enzymes.
6. Amylolytic enzymes.
7. Edible gelatine.
8. Tannins.
9. Bentonite.
10. Silicon aerogel.
11. Charcoal.

12. Chemically inert filtration adjuvant and precipitation agents, including perlite, washed diatomite, cellulose, insoluble polyamide, polyvinylpyrrolidone, and polystyrene, which comply with the Community Directives on materials and articles intended to come into contact with foodstuffs^(a).
13. Chemically inert adsorption adjuvants which comply with the said Community Directives and which are used to reduce the limonoid and naringin content of citrus juice without significantly affecting the limonoid glucosides, acid, sugars (including oligosaccharides) or mineral content of such juice.

SCHEDULE 5 Regulation
2(2)(e)

MINIMUM JUICE AND PUREE CONTENT OF FRUIT NECTARS

	Minimum juice, purée or juice and purée content (% by volume of finished product)
I. Fruit nectars made from fruits with acidic juice unpalatable in the natural state	
Passion fruit	25
Quito naranjillos	25
Blackcurrants	25
Whitecurrants	25
Redcurrants	25
Gooseberries	30
Sallow–thorn berries	25
Sloes	30
Plums	30
Quetsches	30
Rowanberries	30
Rose hips	40
Sour cherries	35
Other cherries	40
Bilberries	40
Elderberries	50
Raspberries	40
Apricots	40
Strawberries	40
Mulberries / blackberries	40

	Minimum juice, purée or juice and purée content (% by volume of finished product)
Cranberries	30
Quinces	50
Lemons and limes	25
Other fruits belonging to this category	25
II. Fruit nectars made from low-acid, pulpy or highly flavoured fruits with juice unpalatable in the natural state	
Mangoes	25
Bananas	25
Guavas	25
Papayas	25
Lychees	25
Azeroles (Neapolitan medlars)	25
Soursop	25
Bullock's heart or custard apple	25
Sugar apples	25
Pomegranates	25
Cashew fruits	25
Spanish plums	25
Umbu	25
Other fruits belonging to this category	25

	Minimum juice, purée or juice and purée content (% by volume of finished product)
III. Fruit nectars made from fruits with juice palatable in the natural state	
Apples	50
Pears	50
Peaches	50
Citrus fruits except lemons and limes	50
Pineapples	50
Other fruits belonging to this category	50

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to England only and come into force on 12th July 2003, implement Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption (OJ No. L10, 12.1.2002, p.58). They revoke and replace the Fruit Juices and Fruit Nectars Regulations 1977, as amended, in so far as they extend to England.

The Regulations – []].

A Regulatory Impact Assessment has been prepared in relation to these Regulations and a copy of it has been placed in the Library of each House of Parliament, together with a Transposition Note setting out how the main elements of the European legislation referred to above are transposed in these Regulations. Copies of those documents may be obtained from the Food Labelling and Standards Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

- (a) 1990 c. 16.
- (b) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999 (c. 28), and paragraphs 12 and 21 of that Schedule amend sections 17(1) and 48 of the 1990 Act. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), as read with section 40(3) of the 1999 Act, and those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46), as read with section 40(2) of the 1999 Act. Regulation 13(4) of the Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) (England and Wales) Regulations 2000 (S.I. 2000/656) expressly authorises the Secretary of State to amend or revoke existing Regulations made or having effect as if made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the 1990 Act.
- (c) OJ No. L31, 1.2.2002, p.1.
- (a) OJ No. L61, 18.3.1995, p.1, as last amended by Directive 98/72/EC (OJ No. L295, 4.11.1998, p.18).
- (b) OJ No. L1, 3.1.94, p.1.
- (c) OJ No. L1, 3.1.94, p.571.
- (a) S.I. 1996/1499, amended by S.I. 1998/141, S.I. 1998/1398, S.I. 1998/2424, S.I. 1999/747, S.I. 1999/1136, S.I. 1999/1483, S.I. 1999/1540, S.I. 2000/768, S.I. 2000/2254, S.I. 2000/3323, S.I. 2001/2294, S.I. 2001/3442, S.I. 2001/3775 and S.I. 2002/379.
- (a) OJ No. L10, 12.1.2002, p.58, as adopted by EEA Joint Committee Decision 99/2002 (OJ No. L298, 31.10.2002, p.10).
- (a) S.I. 1995/3124, to which there are amendments not relevant to these Regulations.
- (b) OJ No. L244, 30.9.1993, p.23.
- (c) S.I. 1995/3187; relevant amendment is S.I. 1999/1136.
- (a) S.I. 1977/927; relevant amendments are S.I. 1982/1311, S.I. 1991/1284 and S.I. 1995/236.
- (b) S.I. 1982/1727.
- (c) S.I. 1985/67.
- (d) S.I. 1990/2486.
- (e) S.I. 1991/1476.
- (f) S.I. 1992/2596.
- (g) S.I. 1982/1311.
- (h) S.I. 1991/1284.
- (a) S.I. 1995/236.
- (a) OJ No. L237, 10.9.94, p.3, as amended by Directive 96/83/EC (OJ No. L48, 19.2.97, p.16).
- (a) OJ No. L10, 12.1.2002, p.53.
- (a) OJ No. L10, 12.1.2002, p.47.
- (a) S.I. 1995/3187, amended by S.I. 1997/1413, 1999/1136, 2000/3323, 2001/60, 2294, 3442, 3775.
- (a) The Directives are [].