

2003 No. 2243

FOOD, ENGLAND

The Honey (England) Regulations 2003

Made - - - - *29th August 2003*

Laid before Parliament *4th September 2003*

Coming into force *25th September 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 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 the Food Safety Act 1990, makes the following Regulations:

Title, application and commencement

1. These Regulations may be cited as the Honey (England) Regulations 2003, apply to England only and come into force on 25th September 2003.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“the Agency” means the Food Standards Agency;

“brood” means any immature stage of the honeybee including the egg, larva and pupa and any honeybee which has not emerged from its cell in a honeycomb;

“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

(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 paragraph 8 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28), and paragraphs 12 and 21 of that Schedule amend respectively sections 17 and 48 of the Food Safety 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 (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 Food Safety Act 1990.

(c) OJ No. L31, 1.2.2002, p.1.

business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

“Directive 2001/110” means Council Directive 2001/110/EC relating to honey(a);

“EEA Agreement” means 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;

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

“food authority” does not include—

- (a) the council of a district in a non-metropolitan county in England 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);

“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 assigned to it by the 1996 Regulations;

“labelling” has the meaning assigned to it by the 1996 Regulations;

“preparation” includes manufacture and any form of processing or treatment; and

“the 1996 Regulations” means the Food Labelling Regulations 1996(d);

“reserved description”, as regards any specified honey 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, and “sale” shall be construed accordingly;

“specified honey product”, subject to paragraph (2) means any food specified in column 2 of Schedule 1;

“ultimate consumer” means any person who buys food 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 specified honey product for the purpose of these Regulations—

- (i) if it meets the relevant specifications contained in Schedule 2 as read with the notes relating to that Schedule, and
- (ii) there has not been added to it any other ingredient and it is as far as possible free from organic or inorganic matters foreign to its composition.

(3) Any other expression used in both these Regulations and in Directive 2001/110 has the same meaning in these Regulations as in that Directive.

Reserved descriptions

3. No person shall sell to the ultimate consumer or to a catering establishment 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) OJ No. L10, 12.1.2002, p.47, as adopted by EEA Joint Committee Decision 99/2002.

(b) OJ No. L1, 3.1.94, p.1.

(c) OJ No. L1, 3.1.94, p.571.

(d) S.I. 1996/1499; the relevant amending instrument is S.I. 1998/1398.

- (a) such food is the specified honey 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;
- (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 specified honey product.

Labelling and description of specified honey products

4.—(1) Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell to the ultimate consumer or to a catering establishment any specified honey product unless it is marked or labelled with the following particulars —

- (a) a reserved description of the product;
- (b) in the case of baker's honey the words "intended for cooking only" which words shall appear on the label in close proximity to the product name;
- (c) the country or countries of origin where the honey has been harvested save that if the honey originates in more than one Member State or third country the country of origin may be replaced with one of the following as appropriate—
 - (i) "blend of EC honeys",
 - (ii) "blend of non-EC honeys",
 - (iii) "blend of EC and non-EC honeys";

(2) No person shall sell to the ultimate consumer or to a catering establishment any filtered honey or baker's honey which is marked or labelled with information relating to floral or vegetable origin, regional, territorial or topographical origin or specific quality criteria.

(3) Where pursuant to note 2 of Schedule 1, the reserved description "honey" has been used in the product name of a compound foodstuff containing baker's honey, no person shall sell such a compound foodstuff unless the list of ingredients includes the term "baker's honey".

Sale of filtered honey or baker's honey in bulk containers or packs

5.—(1) No person shall sell any filtered honey or baker's honey in bulk containers or packs unless such bulk containers and packs are labelled with their respective reserved description of the product and any trade documents clearly indicate the reserved description of the product.

(2) For the purpose of this paragraph trade documents includes all the documents relating to the sale, transportation, storage or delivery of the product.

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 honey product is required to be marked or labelled by regulations 4(1)(a) to (c) and (3) of these Regulations 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 regulations 3, 4 or 5 of these Regulations 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 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 2001/110/EC.

Application of various provisions of the Act

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 any Part thereof shall be construed as a reference to these Regulations—

- (a) section 2 (extended meaning of sale etc.);
- (b) section 3 (presumptions that food is 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 section 8, 14 or 15;
- (e) section 22 (defence of publication in the course of a 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);
- (l) section 44 (protection of officers acting in good faith).

Amendment and revocations

10.—(1) The Honey Regulations 1976(a), in so far as they apply to England, are revoked.

(2) The following entries relating to the Honey Regulations 1976 shall (insofar as the following Regulations apply to England), be omitted —

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

(a) S.I. 1976/1832 as amended by S.I. 1990/2486, S.I. 1991/1476, S.I. 1992/2596 and S.I. 1996/1499.

(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.

(f) in the Miscellaneous Food Additives Regulations 1995^(a), in Schedule 9;

(g) in the Food Labelling Regulations 1996^(b), in Schedule 9.

(3) In the Miscellaneous Food Additives Regulations 1995, in so far as they apply to England, there shall be substituted for the reference to Directive 74/409/EEC in Schedule 6, a reference to Directive 2001/110/EC.

(4) In the 1996 Regulations, in so far as they apply to England, Regulation 4(2)(c) is revoked.

Transitional provisions

11. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that—

(a) the food concerned was marked or labelled before 1st August 2004; and

(b) the matters constituting the alleged offence would not have constituted an offence under the Honey Regulations 1976 as they stood immediately before the coming into force of these Regulations.

Signed by authority of the Secretary of State for Health

Melanie Johnson
Parliamentary Under Secretary of State,
Department of Health

29th August 2003

^(a) S.I. 1995/3187.
^(b) S.I. 1996/1499.

SCHEDULE 1

Regulation 2(1)

SPECIFIED HONEY PRODUCTS AND THEIR RESERVED DESCRIPTIONS

<i>Column 1</i> <i>Reserved descriptions</i>	<i>Column 2</i> <i>Specified honey product</i>
1a. blossom honey <i>or</i> } 1b. nectar honey }	honey obtained from the nectar of plants
2. honeydew honey	honey obtained mainly from excretions of plant sucking insects (<i>Hemiptera</i>) on the living part of plants or secretions of living parts of plants
3. comb honey	honey stored by bees in the cells of freshly built broodless combs or thin comb foundation sheets made solely of beeswax and sold in sealed whole combs or sections of such combs
4a. chunk honey <i>or</i> } 4b. cut comb in honey }	honey which contains one or more pieces of comb honey
5. drained honey	honey obtained by draining de-capped broodless combs
6. extracted honey	honey obtained by centrifuging de-capped broodless combs
7. pressed honey	honey obtained by pressing broodless combs with or without the application of moderate heat not exceeding 45°C
8. filtered honey	honey obtained by removing foreign inorganic or organic matters in such a way as to result in the significant removal of pollen
9. baker's honey	honey which is— (a) suitable for industrial uses or as an ingredient in other foodstuffs which are then processed; and (b) may— (i) have a foreign taste or odour, (ii) have begun to ferment or have fermented, or (iii) have been overheated

Note 1: The description “honey” may be used for specified honey products specified in column 2 of items 1a, 1b, 2, 5 and 6 of Schedule 1.

Note 2: Where the specified honey product specified in column 2 of item 9 is used as an ingredient in a compound foodstuff, the reserved description “honey” may be used in the product name of that compound foodstuff.

Note 3: Except in the case of products specified in column 2 of items 7 and 8 a specified honey product may additionally be described by—

- (i) its floral or vegetable origin, if the product comes wholly or mainly from the indicated source and possesses the organoleptic, physio-chemical and microscopic characteristics of the source;
- (ii) its regional, territorial or topographical origin, if the product comes entirely from the indicated source; and
- (iii) its specific quality criteria.

SCHEDULE 2

Regulation 2(2)

SPECIFICATIONS FOR SPECIFIED HONEY PRODUCTS

1.	Sugar content	
1.1.	Fructose and glucose content (sum of both)	
	– blossom honey	not less than 60 g/100 g
	– honeydew honey, blends of honeydew honey with blossom honey	not less than 45 g/100 g
1.2.	Sucrose content	
	– in general	not more than 5 g/100 g
	– false acacia (<i>Robinia pseudoacacia</i>), alfalfa (<i>Medicago sativa</i>), Menzies Banksia (<i>Banksia menziesii</i>), French honeysuckle (<i>Hedysarum</i>), red gum (<i>Eucalyptus camaldulensis</i>), leatherwood (<i>Eucryphia lucida</i> , <i>Eucryphia milliganii</i>), <i>Citrus</i> spp.	not more than 10 g/100 g
	– lavender (<i>Lavandula</i> spp.), borage (<i>Borago officinalis</i>)	not more than 15 g/100 g
2.	Moisture content	
	– in general	not more than 20%
	– heather (<i>Calluna</i>) and baker's honey in general	not more than 23%
	– baker's honey from heather (<i>Calluna</i>)	not more than 25%
3.	Water-insoluble content	
	– in general	not more than 0.1 g/100 g
	– pressed honey	not more than 0.5 g/100 g
4.	Electrical conductivity	
	– honey not listed below and blends of these honeys	not more than 0.8 mS/cm
	– honeydew and chestnut honey and blends of these except with those listed below	not less than 0.8 mS/cm
	– exceptions: strawberry tree (<i>Arbutus unedo</i>), bell heather (<i>Erica</i>), eucalyptus, lime (<i>Tilia</i> spp.), ling heather (<i>Calluna vulgaris</i>), manuka or jelly bush (<i>Leptospermum</i>), tea tree (<i>Melaleuca</i> spp.)	
5.	Free acid	
	– in general	not more than 50 milli-equivalents acid per 1000 grammes
	– baker's honey	not more than 80 milli-equivalents acid per 1000 grammes

6.	Diastase activity and hydroxymethylfurfural (HMF) content determined after processing and blending	
	(a) Diastase activity (Schade scale)	
	– in general, except baker’s honey	not less than 8
	– honeys with low natural enzyme content (e.g. citrus honeys) and an HMF content of not more than 15 mg/kg	not less than 3
	(b) HMF	
	– in general, except baker’s honey	not more than 40 mg/kg (subject to the provisions of (a), second indent)
	– honeys of declared origin from regions with tropical climate and blends of these honeys	not more than 80 mg/kg

Note 1: When placed on the market as honey or used in any product intended for human consumption, honey must not:

- (a) except in the case of baker’s honey, have any foreign tastes or odours, have begun to ferment or have fermented, or have been heated in such a way that the natural enzymes have been either destroyed or significantly inactivated.
- (b) have an artificially changed acidity.

Note 2: No pollen or constituent particular to honey may be removed except where this is unavoidable in the removal of foreign inorganic or organic matter.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England, implement Council Directive 2001/110/EC concerning honey (OJ No. L10, 12.1.2002, p.48). They revoke and replace the Honey Regulations 1976, as amended, in relation to England.

The Regulations—

- (a) prescribe definitions and reserved descriptions for certain specified honey products (*regulation 2 and Schedules 1 and 2*);
- (b) restrict the use of reserved descriptions to the specified honey products to which they relate (*regulation 3*);
- (c) prescribe labelling requirements for such products (*regulations 4, 5 and 6*);
- (d) specify a penalty, enforcement authorities and, in accordance with Articles 2 and 3 of Council Directive 89/397/EEC on the official control of foodstuffs (OJ No. L186, 30.6.89, p.23), a defence in relation to exports (*regulations 7 and 8*);
- (e) apply various provisions of the Food Safety Act 1990 (*regulation 9*);
- (f) revoke the previous Regulations and make consequential amendments and transitional provisions (*regulations 10 and 11*).

A Regulatory Impact Assessment has been prepared and 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 may be obtained from the Food Labelling and Standards Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

STATUTORY INSTRUMENTS

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