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WELSH STATUTORY INSTRUMENTS

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## 2003 No. 3041

### The Fruit Juices and Fruit Nectars (Wales) Regulations 2003

#### Citation, commencement and application

1. These Regulations —

may be cited as the Fruit Juices and Fruit Nectars (Wales) Regulations 2003, shall come into force on 28th November 2003 and shall apply to Wales only.

#### Interpretation

2.—(1) In these Regulations —

“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990;

“catering establishment” (“*sefydliad arlwyo*”) 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” (“*cynnyrch dynodedig*”) means, subject to paragraph (2), any food specified in Column 2 of Schedule 1;

“Directive 95/2/EC” (“*Cyfarwyddeb 95/2/EC*”) means Directive 95/2/EC of the European Parliament and of the Council on food additives other than colours and sweeteners<sup>(1)</sup>;

“EEA State” (“*Gwladwriaeth AEE*”) means a State which is a Contracting Party to the Agreement on the European Economic Area<sup>(2)</sup> signed at Oporto on 2nd May 1992 as adjusted by the Protocol<sup>(3)</sup> signed at Brussels on 17th March 1993;

“food authority” (“*awdurdod bwyd*”) has the same meaning as in section 5(1A) and (3)(a) and (b) of the Food Safety Act 1990;

“reserved description” (“*disgrifiad neilltuedig*”), 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<sup>(4)</sup>

“ultimate consumer” (“*defnyddiwr olaf*”) 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;

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<sup>(1)</sup> OJNo. L61, 18.3.1995, p.1, as last amended by Directive 98/72/EC (OJ No. L295, 4.11.1998, p.18).

<sup>(2)</sup> OJ No. L1, 3.1.94, p.1.

<sup>(3)</sup> OJ No. L1, 3.1.94, p.571.

<sup>(4)</sup> 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.

- (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 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.

### **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 of 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 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 or 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) 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 food authority shall enforce and execute these Regulations in its area.

### **Defence in relation to exports**

8.—(1) 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<sup>(5)</sup>.

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(5) 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).

### 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

- (a) **10.** (1) (a) in the Colours in Food Regulations 1995(6) (insofar as they apply to Wales), in item 17 of Schedule 2, for the words “Directive 93/77/EEC” there shall be substituted the words “Council Directive 2001/112/EC”;
- (b) in the Miscellaneous Food Additives Regulations 1995(7) (insofar as they apply to Wales), 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”;
  - (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”.

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(6) S.I. 1995/3124, to which there are amendments not relevant to these Regulations.

(7) S.I. 1995/3187, to which there are amendments not relevant to these Regulations.

(2) In the provisions of the Regulations specified in paragraph (3) (in each case insofar as they apply to Wales) the entries relating to the Fruit Juices and Fruit Nectars Regulations 1977<sup>(8)</sup> shall be deleted.

(3) The provisions are —

- (a) Schedule 1 to the Food (Revision of Penalties) Regulations 1982<sup>(9)</sup>;
- (b) Part I of the Schedule to the Food (Revision of Penalties) Regulations 1985<sup>(10)</sup>;
- (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<sup>(11)</sup>;
- (d) Part I of Schedule 1 to the Food Safety (Exports) Regulations 1991<sup>(12)</sup>;
- (e) Part I of the Schedule to the Food (Forces Exemptions) (Revocations) Regulations 1992<sup>(13)</sup>; and
- (f) Schedule 9 to the Miscellaneous Food Additives Regulations 1995<sup>(14)</sup>.

(4) The following Regulations are hereby revoked (insofar as they apply to Wales) —

- (a) the Fruit Juices and Fruit Nectars Regulations 1977;
- (b) the Fruit Juices and Fruit Nectars (Amendment) Regulations 1982<sup>(15)</sup>;
- (c) the Fruit Juices and Fruit Nectars (England, Wales and Scotland) (Amendment) Regulations 1991<sup>(16)</sup>;
- (d) the Fruit Juices and Fruit Nectars (England, Wales and Scotland) (Amendment) Regulations 1995<sup>(17)</sup>.

### **Transitional provision**

**11.** In any proceedings for an offence under regulation 7 it shall be a defence for the person 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 on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(18)</sup>.

26th November 2003

*D. Elis-Thomas*  
The Presiding Officer of the Assembly

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<sup>(8)</sup> S.I. 1977/927.

<sup>(9)</sup> S.I. 1982/1727.

<sup>(10)</sup> S.I. 1985/67.

<sup>(11)</sup> S.I. 1990/2486.

<sup>(12)</sup> S.I. 1991/1476.

<sup>(13)</sup> S.I. 1992/2596.

<sup>(14)</sup> S.I. 1995/3187; relevant amendments are S.I. 1997/1413, 1999/1136, 2001/1787 (W. 128), 1440 (W. 102).

<sup>(15)</sup> S.I. 1982/1311.

<sup>(16)</sup> S.I. 1991/1284.

<sup>(17)</sup> S.I. 1995/236.

<sup>(18)</sup> 1998 c. 38.