

EXPLANATORY MEMORANDUM TO

THE FRUIT JUICES AND FRUIT NECTARS REGULATIONS (NORTHERN IRELAND) 2013 2013 No. 253

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Food Standards Agency in Northern Ireland to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under Articles 15(1)(a) and (e), 16(1), 25(1)(a) and 3, 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991, as read with paragraph 1A of Schedule 2 to the European Communities Act 1972.

2. Purpose of the Rule

- 2.1 This rule implements the provisions of Council Directive 2012/12/EU amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption. The new Regulations consolidate also all existing Regulations in Northern Ireland concerning fruit juices and similar products, including fruit nectars. Its primary aim is to ensure consistency in the minimum quality for products labelled as fruit juices and fruit nectars etc. and that consumers are not misled.

3. Matters of special interest to the Health Committee

- 3.1 None.

4. Legislative Context

- 4.1 This rule implements the provisions contained in Council Directive 2001/112/EC as amended by Commission Directive 2009/106/EC and Council Directive 2012/12/EU. Council Directive 2001/112/EC and Commission Directive 2009/106/EC are currently implemented by way of the Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2003 and the Fruit Juices and Fruit Nectars (Amendment) Regulations (Northern Ireland) 2011. Further legislation is required to implement the new provisions in Council Directive 2012/12/EU. Existing regulations on fruit juices and fruit nectars are therefore being revoked and a new set of consolidated Regulations is being made which will make it easier for those needing to refer to the Regulations.

5. Parity or Replicatory Measure

- 5.1 This Rule applies to Northern Ireland only. Parallel legislation is being made in England, Scotland and Wales.

6. European Convention on Human Rights

- 6.1 As this Rule is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 Revised EU rules relating to the labelling and composition of fruit juices and fruit nectars contained in Council Directive 2012/12/ EU were adopted in April 2012. Transposition of the new provisions on fruit juices and nectars into national law is required by 28 October 2013. However, at a UK level, consultation revealed changes that were needed to the draft implementing legislation and there has been a delay in reaching an agreed UK position in light of these changes and the need for clearance with UK departments. This means that the Regulations will come into force 23 days later than the planned implementation date. However, this should have no adverse effect for consumers or industry.

7.2 In addition FSA are committed to consolidate all rules on fruit juice to simplify the landscape of legislation in this area at the same time as implementing the new EU provisions. A change to the existing enforcement regime has also been taken forward with a move from the existing frontline criminal sanctions to a more proportionate and targeted regime using improvement notices. Where there is failure to comply with an improvement notice, an offender will be liable, on summary conviction, to a fine not exceeding level 5 (£5000). Businesses will have the opportunity to appeal against an improvement notice to the Magistrates Court.

7.2 The main changes in relation to the amending EU Directive that are of particular relevance to the UK are:

i. Processing methods

- Move from mandatory to optional restoration of aromas to fruit juice and fruit juice from concentrate in line with Codex.
- Permitting a new category of juice called ‘water extracted fruit juice’ (juice produced by the diffusion of water with pulpy whole fruit or dehydrated whole fruit) in line with Codex.
- Permitting the freezing of fruit as an approved method of preservation.

ii. Sugar Prohibition

- Prohibition of the addition of sugar to fruit juices.
- Prevention of ‘no added sugar’ claims on fruit juices.
- Optional use of clarifying text to educate consumers for a time limited period that in the future fruit juice will no longer contain added sugar.
- Prevention of the use of “no added sugar claims” on nectars containing added sweeteners.
- Lowering of Brix¹ values for blackcurrant, guava, mango and passion fruit to realign with Codex levels.

iii. Labelling

- Requirement for the product name to reflect the fruits represented in the ingredients list in descending order of their quantity in the product.
- Inclusion of tomatoes in the list of fruits used in fruit juice production.
- To amend the definition of fruit juice to clarify that the use of fruit purees is acceptable in juice production and can be regarded as “juices” for the purposes of the Directive.

iv. Other Measures

The new directive introduces a number of small technical adaptations and linguistic improvements not listed. These include a definition of ‘flavour’ and referencing the

¹ Brix values provide a measure of quality by setting minimum soluble solids levels (sugar levels) for fruit juices. The Brix to acid ratio is an easy way to tell if a juice is sweet or acidic (sour); the higher the ratio the sweeter the juice

Water Directive for restoration of fruit juice. These revisions, have negligible expected cost but are important as they provide further clarity and will facilitate interpretation, avoiding future areas of dispute.

- Consolidation

7.3 The new Regulations consolidate all existing rules on fruit juices and fruit nectars etc. into one new set of regulations. This will see the number of regulations on fruit juice decrease to one, making it easier for industry and enforcement authorities by having all the domestic fruit juice rules together in one set of Regulations.

8. Consultation outcome

8.1 The Food Standards Agency in Northern Ireland conducted a formal public consultation from 7 June and 30 August 2013 on a draft of the proposed S.R and the associated draft Impact Assessment. No responses were received to the consultation in Northern Ireland.

9. Equality Impact

9.1 These regulations will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the section 75 groups.

10. Guidance

10.1 Guidance notes relating to the current fruit juice regulations will be updated to reflect the new changes. All interested parties including enforcement authorities will be informed when the new Regulations come into operation and the main changes will be highlighted.

11. Regulating small business

11.1 The legislation applies to small business but only a small number are thought to be involved in producing fruit juices and fruit nectars etc. Most fruit juice manufacturing businesses are medium to large multilateral companies which account for most of the branded and own brand fruit juices on sale in the UK.

12. Monitoring

12.1 The FSA will work with District Councils where problems arise or suspected infringements of the rule arise. The effectiveness of the rule will be also be monitored via general feedback from Industry and Enforcement Authorities.

13. Contact

Mervyn Briggs at the Food Standards Agency NI, Tel: 028 9041 7742,

Email: mervyn.briggs@foodstandards.gsi.gov.uk or

Esther Chartres, Tel: 028 9041 7737

Email: esther.chartres@foodstandards.gsi.gov.uk