

2003 No. 569

FOOD

The Honey (Scotland) Regulations 2003

<i>Made</i>	- - - - -	<i>26th November 2003</i>
<i>Laid before the Scottish Parliament</i>		<i>27th November 2003</i>
<i>Coming into force</i>	- - -	<i>18th December 2003</i>

The Scottish Ministers in exercise of the powers conferred by sections 6(4), 16(1)(e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990^(a) and of all other powers enabling them in that behalf, having had regard in accordance with section 48(4A)^(b) of that Act to relevant advice given by the Food Standards Agency, and after consultation in accordance with section 48(4) and (4B)^(c) of the said Act, hereby make the following Regulations:

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Honey (Scotland) Regulations 2003 and shall come into force on 18th December 2003.
- (2) These Regulations shall extend to Scotland only.

Interpretation

- 2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“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, and “broodless” shall be construed accordingly;

“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;

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

(a) 1990 c.16; section 6(4) was amended by the Deregulation and Contracting Out Act 1994 (c.40), Schedule 9, paragraph 6 and by the Food Standards Act 1999 (c.28) (“the 1999 Act”), Schedule 5, paragraph 10(3); sections 16(1) and 48(1) were amended by the 1999 Act, Schedule 5, paragraph 8; section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was amended by the 1999 Act, Schedule 6; amendments made by Schedule 5 of the 1999 Act shall be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) (“the 1998 Act”) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(c) Section 48(4B) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(d) O.J. No. L 10, 12.1.02, p.47, as adopted by EEA Joint Committee Decision 99/02 (O.J. No. L 298, 31.10.02, p.10).

“EEA Agreement” means the Agreement on the European Economic Area(a) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(b) signed at Brussels on 17th March 1993;

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

“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;

“preparation” includes manufacture and any form of processing or treatment and “prepared” shall be construed accordingly;

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

“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” and “sold” shall be construed accordingly;

“specified honey product”, subject to paragraph (2) means any food specified in column 2 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) A food described in Column 2 of Schedule 1, is not a specified honey product unless—

- (a) it meets the relevant specifications contained in Schedule 2 (as read with the notes relating to that Schedule); and
- (b) no other ingredient has been added to it 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 Directive 2001/110 has the same meaning in these Regulations as that Directive.

Scope

3. With the exception of regulation 6, these regulations apply to specified honey 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 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) 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; 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 specified honey product.

(a) O.J. No. L 1, 3.1.94, p.1.

(b) O.J. No. L 1, 3.1.94, p.571.

(c) S.I. 1996/1499 to which there are amendments not relevant to these Regulations.

Labelling and description of specified honey products

5.—(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—

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

(2) Where, pursuant to note 2 of Schedule 1, the description "honey" has been used in the name of a compound foodstuff, 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

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

(2) For the purposes of paragraph (1) "trade documents" includes all the documents relating to the sale, transportation, storage or delivery of the product.

Manner of marking or labelling

7. 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 regulation 5 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

8.—(1) Any person who contravenes regulations 4, 5 or 6 of these Regulations shall be guilty of an offence.

(2) Any person found guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Each food authority shall enforce and execute these Regulations in its area.

Defence in relation to exports

9. 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 that legislation complies with the provisions of Directive 2001/110/EC.

Application of various provisions of the Act

10. 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 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 a business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 33 (obstruction etc. of officers);
- (h) section 35(1) to (3) (punishment of offences), insofar as it relates to offences under section 33(1) or (2) as applied by paragraph (g);
- (i) section 36 (offences by bodies corporate);
- (j) section 36A (offences by Scottish partnerships); and
- (k) section 44 (protection of officers acting in good faith).

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 (Scotland) Regulations 1976(a) if those Regulations had been in force when the food was marked or labelled.

Amendment and revocations

12.—(1) The following entries relating to the Honey (Scotland) Regulations 1976 shall be omitted—

- (a) in the Food and Drugs (Scotland) Act 1956 (Transfer of Enforcement Function) Regulations 1983(b), in Schedule 1;
- (b) in the Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985(c), in Schedules 1 and 2;
- (c) in the Food Safety Act 1990 (Consequential Modifications) (Scotland) Order 1990(d), in Schedule 1, Part I, Schedule 2, Schedule 3 and Schedules 5 and 8;
- (d) in the Food Safety (Exports) Regulations 1991(e), in Schedule 2;
- (e) in the Food (Forces Exemptions) (Revocations) Regulations 1992(f), in the Schedule, Part II; and
- (f) in the 1996 Regulations, in Schedule 9.

(2) In the Miscellaneous Food Additives Regulations 1995(g), for “Directive 74/409/EEC” in Schedule 6, substitute “Directive 2001/110/EC”.

(a) S.I. 1976/1818 as amended by S.I. 1985/1068, 1990/2625, 1991/1476, 1992/2596 and 1996/1499.

(b) S.I. 1983/270 to which there are amendments not relevant to these Regulations.

(c) S.I. 1985/1068 to which there are amendments not relevant to these Regulations.

(d) S.I. 1990/2625 to which there are amendments not relevant to these Regulations.

(e) S.I. 1991/1476 to which there are amendments not relevant to these Regulations.

(f) S.I. 1992/2596 to which there are amendments not relevant to these Regulations.

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

(3) The Honey (Scotland) Regulations 1976 are hereby revoked.

TOM McCABE

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
26th November 2003

SCHEDULE 1

Regulation 2(1)

SPECIFIED HONEY PRODUCTS AND THEIR RESERVED DESCRIPTIONS

Column 1 Reserved description	Column 2 Specified honey product	
1a. blossom honey or 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 or 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- <ul style="list-style-type: none"> (a) is suitable for industrial uses or as an ingredient in other foodstuffs which are then processed; and

Column 1	Column 2
Reserved description	Specified honey product
	(b) may-
	(i) have a foreign taste or odour;
	(ii) have begun to ferment or have fermented; or
	(iii) have been overheated

NOTES

1. The description "honey" may be used in place of the reserved description for the specified honey products listed as items 1a, 1b, 2, 5 and 6 of column 2 of this Schedule.
2. Where the specified honey product specified in column 2 of item 9 is used as an ingredient in a compound foodstuff, the description "honey" may be used in the name of that compound foodstuff.
3. Except in the case of products specified in column 2 of items 8 and 9, 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, physicochemical and microscopic characteristics of the source;
 - (ii) its regional, territorial or topographical origin, if the product comes entirely from the indicated source;
 - (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 camadulensis</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

NOTES

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.
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 extend to Scotland only, implement Council Directive 2001/110/EC concerning honey (O.J. No. L 10, 12.1.2002, p.47). They revoke and replace the Honey (Scotland) Regulations 1976 (“the 1976 Regulations”), as amended.

The Regulations—

- (a) prescribe definitions and reserved descriptions for certain specified honey products (regulation 2 and Schedules 1 and 2);
- (b) provide for the circumstances in which the Regulations apply (regulation 3);
- (c) restrict the use of reserved descriptions to the specified honey products to which they relate (regulation 4);
- (d) prescribe labelling requirements for such products (regulations 5 and 6);
- (e) prescribe the manner of making or labelling and apply specified provisions of the Food Labelling Regulations 1996 (regulation 7);
- (f) 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 (O.J. No. L 186, 30.6.89, p.23) and the European Economic Area Agreement, a defence in relation to exports (regulations 8 and 9);
- (g) apply various provisions of the Food Safety Act 1990 (regulation 10);
- (h) make transitional provisions (regulation 11); and
- (i) revoke the previous Regulations and make consequential amendments (regulation 12).

These Regulations differ from the 1976 Regulations by—

- (a) introducing new reserved descriptions for nectar honey, cut comb in honey, filtered honey and baker’s honey;
- (b) omitting the definitions of freshly built broodless combs, honeybee and plant;
- (c) introducing technical compositional changes for honey, blossom honey, honeydew honey, comb honey and pressed honey; and
- (d) re-enacting with modifications labelling requirements.

A Regulatory Impact Assessment, which includes a compliance cost assessment of the effect these Regulations would have on business costs, has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.

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