

2011 No. 153

FOOD

**The Fruit Juices and Fruit Nectars (Scotland) Amendment
Regulations 2011**

Made - - - - - *22nd February 2011*

Laid before the Scottish Parliament *24th February 2011*

Coming into force - - - *18th March 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1)(a) and (e), 17(1) and 48(1) of the Food Safety Act 1990(a) and all other powers enabling them to do so.

In accordance with section 48(4A) of that Act(b), they have had regard to relevant advice given by the Food Standards Agency.

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), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Fruit Juices and Fruit Nectars (Scotland) Amendment Regulations 2011 and come into force on 18th March 2011.

Amendment of the Fruit Juices and Fruit Nectars (Scotland) Regulations 2003

2.—(1) The Fruit Juices and Fruit Nectars (Scotland) Regulations 2003(d) are amended in accordance with paragraphs (2) to (5).

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- (a) 1990 c.16. Section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990; sections 16(1), 17(1) and 48(1) were amended by the Food Standards Act 1999 (c.28) (“the 1999 Act”) Schedule 5, paragraphs 7 and 8; section 17 was also amended by the 1999 Act, Schedule 5, paragraph 12; section 48 was also amended by the 1999 Act, Schedule 5, paragraph 21 and S.I. 2004/2990; section 48(4) is disapplied in respect of these Regulations by virtue of section 48(4C) which was inserted by S.I. 2004/2990; amendments made by Schedule 5 to the 1999 Act should 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, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not so transferred those functions were transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849).
- (b) Section 48(4A) was inserted by the 1999 Act, Schedule 5, paragraph 21.
- (c) O.J. No. L 31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (O.J. No. L 188, 18.7.2009, p.14).
- (d) S.S.I. 2003/293, as amended by S.S.I. 2005/616, S.S.I. 2009/435 and S.S.I. 2009/436.

- (2) In regulation 2(2)—
- (a) at the end of sub-paragraph (d) omit the word “and”; and
 - (b) after sub-paragraph (e) insert—
 - “; and
 - (f) being a food bearing the reserved description “fruit juice from concentrate”, it does not comply with the minimum Brix level specified in Schedule 6 read together with the Notes to that Schedule”.
- (3) In regulation 5(1)—
- (a) for sub-paragraph (d) substitute—
 - “(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 from concentrate” or, as the case may be, “partially 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;”.
 - (b) for sub-paragraph (e) substitute—
 - “(e) in the case of a fruit nectar obtained wholly from one or more concentrated products, its labelling bears the words “from concentrate” or, as the case may be, “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;”.
- (4) In Schedule 1, in Column 2 of item 3 (Fruit juice from concentrate), at the end of the paragraph, after “obtained from fruit or fruits of the same kind.”, insert—
“The minimum Brix levels for fruit juices from concentrate are indicated in Schedule 6.”.
- (5) After Schedule 5, insert Schedule 6, as set out in the Schedule to these Regulations.

S ROBISON
Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
22nd February 2011

SCHEDULE

Regulation 2(5)

“SCHEDULE 6 Regulation 2 and Schedule 1

MINIMUM BRIX LEVELS FOR FRUIT JUICES FROM CONCENTRATE

<u>Column 1</u> <i>Fruit's Common Name</i>	<u>Column 2</u> <i>Botanical Name</i>	<u>Column 3</u> <i>Minimum degree Brix level for fruit juices from concentrate (i.e. for reconstituted fruit juice and reconstituted fruit purée)</i>
Apple (*)	<i>Malus domestica</i> Borkh.	11.2
Apricot (**)	<i>Prunus armeniaca</i> L.	11.2
Banana (**)	<i>Musa sp.</i>	21.0
Blackcurrant (*)	<i>Ribes nigrum</i> L.	11.6
Grape (*)	<i>Vitis vinifera</i> L. or hybrids thereof <i>Vitis labrusca</i> L. or hybrids thereof	15.9
Grapefruit (*)	<i>Citrus x paradise</i> Macfad.	10.0
Guava (**)	<i>Psidium guajava</i> L.	9.5
Lemon (*)	<i>Citrus limon</i> (L.) Burm.f.	8.0
Mandarin (*)	<i>Citrus reticulata</i> Blanco	11.2
Mango (**)	<i>Mangifera indica</i> L.	15.0
Orange (*)	<i>Citrus sinensis</i> (L.) Osbeck	11.2
Passion Fruit (*)	<i>Passiflora edulis</i> Sims	13.5
Peach (**)	<i>Prunus persica</i> (L.) Batsch var. <i>Persica</i>	10.0
Pear (**)	<i>Pyrus communis</i> L.	11.9
Pineapple (*)	<i>Ananas comosus</i> (L.) Merr.	12.8
Raspberry (*)	<i>Rubus idaeus</i> L.	7.0
Sour Cherry (*)	<i>Prunus cerasus</i> L.	13.5
Strawberry (*)	<i>Fragaria x ananassa</i> Duch.	7.0

Notes:

1. If a juice from concentrate is manufactured from a fruit not mentioned in the above list, the minimum Brix level of the reconstituted juice shall be the Brix level of the juice as extracted from the fruit used to make the concentrate.
2. For those products marked with an asterisk (*), which are produced as a juice, a minimum relative density is determined as such in relation to water at 20/20 °C.
3. For those products marked with two asterisks (**), which are produced as a purée, only a minimum uncorrected Brix reading (without correction of acid) is determined.
4. In respect of blackcurrant, guava, mango and passion fruit, the minimum degree Brix levels only apply to reconstituted fruit juice and reconstituted fruit purée produced in the EU.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Commission Directive 2009/106/EC amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption (O.J. No. L 212, 15.8.2009, p.42).

Commission Directive 2009/106/EC makes two amendments to Council Directive 2001/112/EC (O.J. No. L 10, 12.1.2002, p. 58). It makes a small linguistic change in relation to mixed juice products containing fruit juice and fruit juices from concentrate and to nectars obtained wholly or partly from one or more concentrated products, in order to alleviate translational difficulties across Member States of the EU. It also introduces a table laying down the minimum Brix levels for fruit juices from concentrate.

These Regulations amend the Fruit Juices and Fruit Nectars (Scotland) Regulations 2003 (S.S.I. 2003/293 (as amended)) by—

- (a) providing that a fruit juice from concentrate must comply with the minimum Brix levels specified in Schedule 6, read together with the Notes to that Schedule (*regulation 2(2) and Schedule*);
- (b) making a small linguistic change to the labelling and description of mixed juice products containing fruit juice and fruit juices from concentrate, and of nectars obtained wholly or partly from one or more concentrated products (*regulation 2(3)*);
- (c) amending Schedule 1 (Reserved Descriptions For Designated Products) so that item 3 (Fruit juice from concentrate) of Schedule 1 cross-refers to Schedule 6 (Minimum Brix Levels For Fruit Juices From Concentrate) (*regulation 2(4) and Schedule*); and
- (d) adding a new Schedule 6 which provides ‘Minimum Brix Levels For Fruit Juices From Concentrate’ (*regulation 2(5) and Schedule*).

A full Business and Regulatory Impact Assessment, which includes a compliance cost assessment of the effect that these Regulations will have on the costs of business and the voluntary sector, and a Transposition Note, have been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency Scotland, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen, AB11 6NJ and online at www.legislation.gov.uk.

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