

**EXPLANATORY MEMORANDUM TO**  
**THE FRUIT JUICES AND FRUIT NECTARS (ENGLAND) REGULATIONS 2013**

**2013 No. 2775**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This instrument 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 England 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 Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 This instrument 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 (England) Regulations 2003 and the Fruit Juices and Fruit Nectars (England) (Amendment) Regulations 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. **Territorial Extent and Application**

5.1 This instrument applies to England only.

5.2 Scotland, Wales and Northern Ireland are introducing their own separate but parallel instruments to similar timescales.

## 6. European Convention on Human Rights

6.1 As the instrument 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. Unfortunately this deadline will be missed but it is aimed to lay the new rules by 28 October, with a coming into force date 21 days later, around mid November. In addition as part of the Red Tape Challenge Exercise covering the Hospitality theme, Defra 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. In line with Government policy 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. A backstop criminal offence is still in place where there is failure to comply with an improvement notice, with an offender being 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 First-tier Tribunal.

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 Brix <sup>1</sup> values for blackcurrant, guava, mango and passion fruit to realign with Codex levels.

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<sup>1</sup> 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

### **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 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

7.4 The new Regulations consolidate all existing rules on fruit juices and fruit nectars etc. into one new set of regulations. This honours the Government’s RTC commitments to reduce regulatory burden on industry. 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 A 6-week consultation was held from 25 April to 6 June 2013 which sought the views of stakeholders on the new Statutory Instrument and the Consultation Stage Impact Assessment (IA). A total of 4 responses were received, two from local authority trading standards bodies and one representing the fruit juice industry (BSDA) and the other the retailers (BRC). All four respondents offered general support to the introduction of the new Regulations. The British Soft Drinks Association (BSDA) who represent the bulk of UK manufacturers have previously welcomed the changes and said that the “new rules will provide consumers with a broader range of clearly labelled, high quality and authentic products to meet changing tastes”. Some reservations were expressed from the BSDA as regards the magnitude of some of the estimates for savings included in the IA, and as a result some downward revisions were made to those estimates. The British Retail Consortium questioned the move from frontline criminal sanctions to improvement notices backed up with criminal sanctions for a failure to comply with an improvement notice as they felt the current enforcement system worked well. However, the Government’s policy is to move away from the use of frontline criminal sanctions wherever possible, particularly in cases where (as here) a breach of food-related provisions does not have any safety implications for consumers.

## **9. Guidance**

9.1 Guidance notes relating to the current fruit juice regulations will be updated to reflect the new changes. Defra is currently reviewing all of its existing guidance material

with the aim of reducing and simplifying the material it produces. All interested parties including enforcement authorities will be informed when the new Regulations come into force and the main changes will be highlighted.

## **10. Impact**

10.1 According to the Impact Assessment the impact on business is estimated to result in savings of £1.14 m and costs of £0.09m (based on 2009 prices) with an overall net benefit of £1.05m.

10.2 The impact on the public sector is estimated to be one off familiarisation costs of about £13,000 (Present Value).

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **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 multinational companies which account for most of the branded and own brand fruit juices on sale in the UK.

## **12. Monitoring & review**

12.1 Annex 1 of the impact assessment describes the post implementation review for this Regulation and discusses success criteria and monitoring. The Regulations include a review clause which will require the Fruit Juices and Fruit Nectars (England) Regulations 2013 to be reviewed after 5 years from 28th October 2013 and the conclusions of the review to be set out in a published report.

## **13. Contact**

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