Statutory Instruments

1995 No. 732

FOOD

The Spirit Drinks (Amendment) Regulations 1995

Made - - - 13th March 1995
Laid before Parliament 13th March 1995
Coming into force - - 3rd April 1995

The Minister of Agriculture, Fisheries and Food and the Secretaries of State concerned respectively with health in England and food and health in Wales, acting jointly, in exercise of the powers conferred on them by section 17(2) of the Food Safety Act 1990(1), and the Minister of Agriculture, Fisheries and Food and the said Secretaries of State, being Ministers designated(2) for the purposes of section 2(2) of the European Communities Act 1972(3) in relation to measures relating to the description of and other requirements relating to spirit drinks, acting jointly, in exercise of the powers conferred on them by the said section 2(2) (as read with section 3(3) of the European Economic Area Act 1993(4) (save for paragraph (a) thereof)), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, extent and commencement

1. These Regulations may be cited as the Spirit Drinks (Amendment) Regulations 1995, shall extend to England and Wales and shall come into force on 3rd April 1995.

Amendments to the Spirit Drinks Regulations 1990

2.—(1) The Spirit Drinks Regulations 1990(5) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) of regulation 2 (“Interpretation”)—

(a) after the definition of “the Act” there shall be inserted the following definition—

“the Commission Regulation” means Commission Regulation (EEC) No. 1014/90 laying down detailed implementing rules on the definition, description

(1) 1990 c. 16; section 4(1) contains a definition of “the Ministers” relevant to the exercise of the statutory powers under which these Regulations are made.
(2) S.I. 1989/1327.
(3) 1972 c. 68.
(4) 1993 c. 51.

(b) for the definition of “the Council Regulation” the following definition shall be substituted—


(c) after the definition of “the Council Regulation” there shall be inserted the following definition—

““the European Economic Area Agreement” has the same meaning as does “the Agreement” in section 6(1) of the European Economic Area Act 1993\(^{(13)}\);”;

(d) for the definition of “specified Community provision” the following definition shall be substituted—

““specified Community provision” means—

(a) any provision of the Council Regulation—

(i) which is specified in column 1 of Part I of the Schedule to these Regulations, and

(ii) whose subject-matter is specified in the corresponding entry in column 2 of that Part;

(b) any provision of the Commission Regulation—

(i) which is specified in column 1 of Part II of the Schedule to these Regulations, and

(ii) whose subject-matter is specified in the corresponding entry in column 2 of that Part; and

(c) Article 1(1) of Commission Regulation (EC) No. 1267/94 applying the agreements between the European Union and third countries on the mutual recognition of certain spirit drinks\(^{(14)}\).”.

(3) In regulation 3 (“Enforcement”)—

(a) the words “in so far as they relate to the retail sale of spirit drinks” in paragraph (1); and

(b) paragraph (3),

shall be revoked.

(4) Regulation 4 (“Powers of authorised officers”) shall be revoked.

(5) In paragraph (2) of regulation 5 (“Offences and penalties”)—

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\(^{(6)}\) OJ No. L105, 25.4.90, p.9.
\(^{(7)}\) OJ No. L115, 8.5.91, p.5.
\(^{(8)}\) OJ No. L160, 25.6.91, p.5.
\(^{(10)}\) OJ No. L285, 4.11.94, p.5.
\(^{(12)}\) OJ No. L327, 13.11.92, p.3.
\(^{(13)}\) 1993 c. 51.
(a) for the phrase “Article 1” there shall be substituted the phrase “Article 1(4)”; and
(b) after the word “beverages” there shall be inserted the phrase “, as amended by Commission Regulation (EEC) No. 1759/90(15), Commission Regulation (EEC) No. 3207/90(16) and Commission Regulation (EEC) No. 3750/90(17).”.

(6) For the Schedule there shall be substituted the Schedule set out in the Schedule to these Regulations.

Exclusion of the operation of section 3(1) of the European Economic Area Act 1993

3. The operation of section 3(1) of the European Economic Area Act 1993 is hereby excluded insofar as it would otherwise apply in relation to the definition for which another is substituted by regulation 2(2)(b) of these Regulations.

Michael Jack
Minister of State, Ministry of Agriculture, Fisheries and Food
2nd March 1995

Signed by authority of the Secretary of State for Health,

Cumberlege
Parliamentary Under Secretary of State for Health
3rd March 1995

Rod Richards
Parliamentary Under Secretary of State, Welsh Office
13th March 1995

(15) OJ No. L162, 28.6.90, p.23.
(16) OJ No. L307, 7.11.90, p.11.
**SCHEDULE TO BE SUBSTITUTED IN THE PRINCIPAL REGULATIONS**

**SPECIFIED COMMUNITY PROVISIONS**

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*


3. These Regulations (which likewise extend to England and Wales only) make provision for the enforcement and execution of—

(i) inserting into regulation 2(1) of the 1990 Regulations a definition of that first mentioned Commission Regulation,

(ii) substituting for the existing Schedule to the 1990 Regulations a new Schedule which refers to particular provisions of that Commission Regulation, and

(iii) substituting for the existing definition of the phrase “specified Community provision” in regulation 2(1) of the 1990 Regulations a definition of that phrase which makes reference, inter alia, to those particular provisions;

(b) Council Regulation (EEC) No. 1576/89 by substituting for the existing definition of that Community instrument in regulation 2(1) of the 1990 Regulations a definition which takes account of the corrections made to it at OJ No. L223, 2.8.89, p.27 and the amendments made to it by Council Regulation (EEC) No. 3280/92 (OJ No. L327, 13.11.92, p.3) and Chapter XXVII of Annex II to the Agreement referred to in sub-paragraph (a) above; and

(c) Article 1(1) of Commission Regulation (EC) No. 1267/94 applying the agreements between the European Union and third countries on the mutual recognition of certain spirit drinks (OJ No. L138, 2.6.94, p.7) by including that provision in the definition of “specified Community provision” substituted as described in sub-paragraph (a)(iii) of this paragraph.

4. These Regulations also revoke part of regulation 3(1) and the whole of regulations 3(3) and 4 of the 1990 Regulations.