

Changes to legislation: The Food (Promotion and Placement) (England) Regulations 2021 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 1

Regulation 3

Categories of specified food

Commencement Information

II Sch. 1 in force at 1.10.2022, see **reg. 1(1)**

Category 1: Prepared soft drinks containing added sugar ingredients (other than the exempt soft drinks listed in paragraph 4(1)).

The following provisions apply for the purposes of this category.

- 1.—(1) “Soft drink” means—
 - (a) a beverage of an alcoholic strength not exceeding 1.2%, or
 - (b) a liquid or a powder which, when prepared in a specified manner, constitutes a beverage of an alcoholic strength not exceeding 1.2%.
- (2) A liquid or a powder is prepared in a specified manner if it is—
 - (a) diluted,
 - (b) combined with crushed ice, or processed so as to create crushed ice,
 - (c) combined with carbon dioxide, or
 - (d) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (a) to (c).
- 2.—(1) A soft drink is “prepared” if it is—
 - (a) a soft drink within paragraph 1(1)(a), or
 - (b) a beverage that would result from preparing a liquid or a powder within paragraph 1(1)(b)—
 - (i) in a specified manner (see paragraph 1(2)), and
 - (ii) in accordance with the relevant dilution ratio.
- (2) The “relevant dilution ratio” means—
 - (a) the dilution ratio stated on, or calculated by reference to information stated on, the packaging of the soft drink, or
 - (b) where no such dilution ratio or information is stated, the dilution ratio of similar drinks on the market.
- 3.—(1) A soft drink contains “added sugar ingredients” if any of the following are combined with other ingredients at any stage in the production of the soft drink—
 - (a) calorific mono-saccharides or di-saccharides;
 - (b) a substance containing calorific mono-saccharides or di-saccharides.
- (2) But a soft drink does not contain “added sugar ingredients” only by reason of containing fruit juice, vegetable juice or milk (or any combination of them).
- (3) For the purposes of sub-paragraph (2)—

Changes to legislation: *The Food (Promotion and Placement) (England) Regulations 2021 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) “fruit juice” is to be construed in accordance with regulation 5 (sugar content condition: fruit juice) of the Soft Drinks Industry Levy Regulations 2018(1) (“the SDIL Regulations”);
- (b) “vegetable juice” is to be construed in accordance with regulation 6 (sugar content condition: vegetable juice) of the SDIL Regulations;
- (c) “milk” is to be construed in accordance with regulation 7 (sugar content condition and exempt soft drinks: milk and milk-based drinks) of the SDIL Regulations.

4.—(1) The following are “exempt soft drinks”—

- (a) alcohol substitute drinks which meet specified conditions, and
- (b) soft drinks of a specified description which are for use for medicinal or other specified purposes.

(2) For the purposes of sub-paragraph (1)(a), the specified conditions are—

- (a) condition 1 provided for by paragraph (2) of regulation 9 (exempt soft drinks: alcohol substitute drinks) of the SDIL Regulations, and
- (b) one or more of conditions 2, 3 and 4 provided for by paragraphs (3) to (5) of regulation 9.

(3) For the purposes of sub-paragraph (1)(b)—

- (a) the specified purposes are the purposes provided for by paragraph (1) of regulation 10 (exempt soft drinks: for medicinal or other purposes) of the SDIL Regulations, and
- (b) the specified descriptions are the descriptions provided for in paragraphs (2) and (3) of regulation 10.

Category 2: Any of the following:

1. Savoury snacks whether intended to be consumed alone or as part of a complete meal including—

- (a) products made from potato, other vegetables, grain or pulses;
- (b) extruded, sheeted and pelleted products;
- (c) bagged savoury crackers, rice cakes or biscuits,

such as crisps, pitta bread based snacks, pretzels, poppadums, salted popcorn and prawn crackers (but not raw, roasted, coated or flavoured nuts).

2. Pork rind-based snacks whether intended to be consumed alone or as part of a complete meal.

Category 3: Breakfast cereals including ready-to-eat cereals, granola, muesli, porridge oats and other oat-based cereals.

Category 4: Confectionery including chocolates and sweets.

Category 5: Ice cream, ice lollies, frozen yogurt, water ices and similar frozen products.

Category 6: Cakes and cupcakes.

Category 7: Sweet biscuits and bars based on one or more of nuts, seeds or cereal.

Category 8: Morning goods, including croissants, pains au chocolat and similar pastries, crumpets, pancakes, buns, teacakes, scones, waffles, Danish pastries and fruit loaves.

Category 9: Desserts and puddings, including pies, tarts and flans, cheesecake, gateaux, dairy desserts, sponge puddings, rice pudding, crumbles, fruit fillings, powdered desserts, custards, jellies and meringues.

(1) [S.I. 2018/41](#), to which there are no relevant amendments.

Changes to legislation: The Food (Promotion and Placement) (England) Regulations 2021 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Category 10: Sweetened (whether with sugar or otherwise) yoghurt and fromage frais.

Category 11: Pizza (except plain pizza bases).

Category 12: Roast potatoes, potato and sweet potato chips, fries and wedges, potato waffles, novelty potato shapes (such as smiley faces), hash browns, rostis, crispy potato slices, potato croquettes.

Category 13: Any of the following:

1. Products that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as a complete meal.

2. Products, other than products that contain pastry, in or with a sauce (but not a marinade, glaze, dressing, seasoning or similar accompaniment) that are marketed as ready for cooking or reheating without requiring further preparation and intended to be consumed as the main element of a meal.

3. Breaded or battered—

(a) vegetable, fish, shellfish, meat, or poultry products;

(b) substitute fish, shellfish, meat or poultry products,

including fish fingers, fish cakes, chicken nuggets and breaded meat substitute.

SCHEDULE 2

Regulation 12

Fixed Monetary Penalties

Civil sanctions

1.—(1) A food authority may by notice impose a fixed monetary penalty on a person in relation to an offence under regulation 11.

(2) Before doing so, the food authority must be satisfied beyond reasonable doubt that the person has committed an offence.

(3) For the purposes of this paragraph, “fixed monetary penalty” means a fine of £2,500.

Commencement Information

I2 Sch. 2 para. 1 in force at 1.10.2022, see [reg. 1\(1\)](#)

Notice of intent

2.—(1) When a food authority proposes to impose a fixed monetary penalty on a person, it must serve on that person a notice of what is proposed (“a notice of intent”).

(2) The notice of intent must include—

(a) the grounds for the proposal to impose the fixed monetary penalty;

(b) the amount of the penalty;

(c) a statement that the liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day in which the notice was received;

(d) information as to—

Changes to legislation: The Food (Promotion and Placement) (England) Regulations 2021 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
- (ii) the circumstances in which the food authority may not impose the requirement (including any defences relating to the offence in relation to which the notice is served).

Commencement Information

I3 Sch. 2 para. 2 in force at 1.10.2022, see **reg. 1(1)**

Discharge of liability

3. The penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

Commencement Information

I4 Sch. 2 para. 3 in force at 1.10.2022, see **reg. 1(1)**

Making representations and objections

4. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received make written representations and objections to the food authority in relation to the proposed imposition of the fixed monetary penalty.

Commencement Information

I5 Sch. 2 para. 4 in force at 1.10.2022, see **reg. 1(1)**

Service of final notice

5.—(1) If the person who has received notice of intent does not discharge liability within 28 days, the food authority may serve a final notice imposing a fixed monetary penalty.

(2) The food authority may not serve a final notice on a person where it is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence to which the notice relates.

(3) Where a food authority serves a final notice relating to a fixed monetary penalty, it may not serve any other notice under these Regulations in relation to the offence.

Commencement Information

I6 Sch. 2 para. 5 in force at 1.10.2022, see **reg. 1(1)**

Contents of final notice

6. A final notice must include information as to—

- (a) the amount of the penalty;
- (b) the grounds for imposing the penalty;

Changes to legislation: The Food (Promotion and Placement) (England) Regulations 2021 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (c) how payment may be made;
- (d) the period of 28 days within which payment must be made;
- (e) details of the early payment discount and late payment penalties;
- (f) rights of appeal;
- (g) the consequences of non-payment.

Commencement Information

17 [Sch. 2 para. 6](#) in force at 1.10.2022, see [reg. 1\(1\)](#)

Discount for early payment

7. If a person who was served with a notice of intent made representations or objections concerning that notice within the time limit, that person may discharge the final notice by paying 50% of the penalty within 14 days beginning with the day on which the final notice was received.

Commencement Information

18 [Sch. 2 para. 7](#) in force at 1.10.2022, see [reg. 1\(1\)](#)

Grounds of appeal

- 8.—(1) The person receiving the final notice may appeal against it.
- (2) The grounds for appeal are—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable;
 - (d) that the decision was wrong for any other reason.

Commencement Information

19 [Sch. 2 para. 8](#) in force at 1.10.2022, see [reg. 1\(1\)](#)

Appeals

- 9.—(1) An appeal under paragraph 9 is to the First-tier Tribunal.
- (2) A final notice is suspended pending the determination or withdrawal of the appeal.
- (3) The First-tier Tribunal may—
- (a) withdraw, confirm or vary a final notice;
 - (b) take such steps as the food authority could have taken in relation to the act or omission giving rise to a final notice; or
 - (c) remit the decision whether to confirm a final notice, or any other matter relating to that decision, to the food authority.

Changes to legislation: The Food (Promotion and Placement) (England) Regulations 2021 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Commencement Information

I10 Sch. 2 para. 9 in force at 1.10.2022, see **reg. 1(1)**

Non-payment after 28 days

- 10.**—(1) The penalty must be paid within 28 days of receipt of the final notice.
- (2) If the penalty is not paid within 56 days, the amount payable is increased by 50%.
- (3) In the case of an appeal the penalty (whether varied or confirmed by the First-Tier Tribunal) is payable within 14 days of the determination of the appeal, and if it is not paid within 14 days the amount of the penalty is increased by 50%.

Commencement Information

I11 Sch. 2 para. 10 in force at 1.10.2022, see **reg. 1(1)**

Recovery of payments

11. A food authority may recover any penalty imposed under this Schedule as if payable under a court order.

Commencement Information

I12 Sch. 2 para. 11 in force at 1.10.2022, see **reg. 1(1)**

Criminal proceedings

- 12.**—(1) If a notice of intent for a fixed monetary penalty is served on any person—
- (a) no criminal proceedings for the offence may be instituted against that person in respect of the act or omission to which the notice related before 28 days from the date on which the notice of intent is received; and
- (b) if that person discharges liability, that person may not at any time be convicted of the offence in relation to that act or omission.
- (2) If a fixed monetary penalty is imposed on any person, that person may not at any time be convicted of the offence in respect of the act or omission giving rise to the penalty.

Commencement Information

I13 Sch. 2 para. 12 in force at 1.10.2022, see **reg. 1(1)**

Changes to legislation:

The Food (Promotion and Placement) (England) Regulations 2021 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- reg. 5 coming into force by [S.I. 2021/1368 reg. 1\(1A\)](#)
- reg. 6 coming into force by [S.I. 2021/1368 reg. 1\(1A\)](#)