

2011 No. 1135

FOOD, ENGLAND

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

<i>Made</i>	- - - -	<i>14th April 2011</i>
<i>Laid before Parliament</i>		<i>20th April 2011</i>
<i>Coming into force</i>	- -	<i>16th May 2011</i>

The Secretary of State, in whom the powers conferred by sections 16(1)(a) and (e) and 48(1) of the Food Safety Act 1990(a) are now vested(b), makes these Regulations in exercise of those powers.

In accordance with section 48(4A) of that Act, the Secretary of State has 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.

Title and commencement

1. These Regulations may be cited as the Fruit Juices and Fruit Nectars (England) (Amendment) Regulations 2011 and come into force on 16th May 2011.

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

2.—(1) The Fruit Juices and Fruit Nectars (England) Regulations 2003(d) are amended as follows.

(2) In paragraph (2) of regulation 2—

- (a) at the end of sub-paragraph (d) omit the word “and”;
- (b) at the end of sub-paragraph (e) substitute “; and” for the full stop; and

(a) 1990 c. 16. Sections 16 and 48 were amended by section 40(1) of, and paragraphs 7 and 8 of Schedule 5 to, the Food Standards Act 1999 (c. 28) (“the 1999 Act”). Section 48 was also amended by section 40(1) of, and paragraph 21 of Schedule 5 to, the 1999 Act and S.I. 2004/2990.

(b) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act.

(c) OJ No. L 31, 1.2.2002, p. 1, last amended by Regulation (EC) No. 596/2009 (OJ No. L 188, 18.7.2009, p. 14).

(d) S.I. 2003/1564; as amended by S.I. 2005/2626, 2009/3235 and 2009/3238.

(c) after sub-paragraph (e) insert—

“(f) being a food bearing the reserved description “fruit juice from concentrate”, it complies with the minimum Brix level specified in Schedule 6, read together with the Notes to that Schedule.”.

(3) In regulation 5—

(a) for 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;” and

(b) for 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) After regulation 11, insert—

“Review of these Regulations

12.—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption^(a) (which is implemented by means of these Regulations) is implemented in other member States.

(3) The report must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) “Review period” means—

- (a) the period of five years beginning on 16th May 2011, and
- (b) subject to paragraph (5), each successive period of five years.

(5) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.”.

^(a) OJ No. L 10, 12.1.2002, p. 58, last amended by Commission Directive 2009/106/EC (OJ No. L 212, 15.8.2009, p. 42).

(5) In Schedule 1—

(a) in column 2 of item 3 (Fruit juice from concentrate), at the end insert—

“The minimum Brix levels for fruit juices from concentrate are indicated in Schedule 6.”;
and

(b) in column 2 of item 5 (Fruit nectar), for “Schedule 4” substitute “Schedule 5” in both places.

(6) After Schedule 5, insert Schedule 6, as set out in the Schedule to these Regulations.

Jim Paice

Minister of State for Agriculture and Food

Department for Environment, Food and Rural Affairs

14th April 2011

SCHEDULE

Regulation 2(6)

“SCHEDULE 6

Regulation 2 and Schedule 1

MINIMUM BRIX LEVELS FOR FRUIT JUICES FROM CONCENTRATE

<i>Column 1</i> <i>Fruit's Common Name</i>	<i>Column 2</i> <i>Botanical Name</i>	<i>Column 3</i> <i>Minimum 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
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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 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, which apply in relation to England only, transpose Commission Directive 2009/106/EC amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption (OJ No. L 212, 15.8.2009, p. 42).

Commission Directive 2009/106/EC makes two amendments to Council Directive 2001/112/EC (OJ No. L 10, 12.1.2002, p. 58). First, 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. Second, it introduces a table laying down the minimum Brix levels for fruit juices from concentrate.

These Regulations amend the Fruit Juices and Fruit Nectars (England) Regulations 2003 (S.I. 2003/1564) (“the 2003 Regulations”), so as to—

- (a) provide that a fruit juice from concentrate must contain the minimum Brix levels specified in Schedule 6, read together with the Notes to that Schedule (regulation 2(2) and the Schedule);
- (b) make 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) amend 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(5)(a) and the Schedule);
- (d) amend Schedule 1 so that an incorrect reference within item 5 (Fruit nectar) is corrected (regulation 2(5)(b)); and
- (e) add as Schedule 6 a new Schedule which provides ‘Minimum Brix Levels For Fruit Juices From Concentrate’ (regulation 2(6) and the Schedule).

These Regulations also require the Secretary of State to review the operation and effect of the 2003 Regulations and publish a report within five years beginning on 16th May 2011 and within every five years after that (regulation 2(4)). Following a review it will fall to the Secretary of State to consider whether the 2003 Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the 2003 Regulations or to amend them.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Food Policy Unit, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London, SW1P 3JR and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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£4.00