

Constitutional and Legislative Affairs Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
11 November 2013

Meeting time:
14:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Gareth Williams
Committee Clerk
029 2089 8008/8019
CLA.Committee@wales.gov.uk

Agenda

1 Introduction, apologies, substitutions and declarations of interest

2 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 (Page 1)

CLA(4)-26-13 – Paper 1: Statutory Instruments with clear reports

Negative Resolution Instruments

CLA324 – The Building Regulations & c. (Amendment No. 3) and Domestic Fire Safety (Wales) Regulations 2013

Negative Procedure: Date Made: 22 October 2013; Date Laid: 25 October 2013;
Coming into Force in accordance with regulation 1(2)

CLA325 – The Education (Remission of Charges Relating to Residential Trips) (Wales) (Amendment) Regulations 2013

Negative procedure: Date Made: 23 October 2013; Date Laid: 25 October 2013;
Coming into Force date: 15 November 2013

3 Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3

Negative Resolution Instruments

CLA326 – The Fruit Juices and Fruit Nectars (Wales) Regulations 2013 (Pages 2 - 61)

Negative procedure: Date Made: 25 October 2013; Date Laid: 28 October 2013; Coming into Force date: 20 November 2013

CLA(4)-26-13 – Paper 2 – Legal Report

CLA(4)-26-13 – Paper 3 – Regulations

CLA(4)-26-13 – Paper 4 – Explanatory Memorandum

4 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(vi) the committee is deliberating on the content, conclusions or recommendations of a report it proposes to publish; or is preparing itself to take evidence from any person;

Consideration of Revised Legislative Consent Memorandum Anti-Social Behaviour, Crime and Policing Bill (Pages 62 - 74)

CLA(4)-26-13 – Paper 5: Background Paper

CLA(4)-26-13 – Paper 6: Legislative Consent Memorandum

CLA(4)-26-13 – Paper 7: Legal Advice

Draft Report on the Education (Wales) Bill (Pages 75 - 121)

CLA(4)-26-13 – Paper 8: Draft Report

Transcript

View the [meeting transcript](#).

Constitutional and Legislative Affairs Committee

CLA(4)-26-13: Paper 1

BACKGROUND INFORMATION ON STATUTORY INSTRUMENTS WITH CLEAR REPORTS

CLA324 – The Building Regulations &c. (Amendment No. 3) and Domestic Fire Safety (Wales) Regulations 2013

Procedure: Negative

These Regulations are made under section 1(4) and 8(1) of the Domestic Fire Safety (Wales) Measure 2011 and sections 1(1), 1A, 2, 3, 34 and 47(1) of, and paragraphs 1, 7, 8 and 10 of Schedule 1 to, the Building Act 1984. The Regulations do not apply to excepted energy buildings.

The Regulations prescribe requirements for automatic fire suppression systems to be installed when certain types of building work are undertaken.

The Regulations also amend the Building Regulations 2010 in order to require certain buildings to be provided with automatic fire suppression systems. Those buildings are dwellings, care homes and some rooms for residential purposes. Temporary buildings are excepted from the requirements as, in certain cases, are listed buildings, buildings in a conservation area and ancient monuments.

CLA325 – The Education (Remission Of Charges Relating To Residential Trips) (Wales) (Amendment) Regulations 2013

Procedure: Negative

These Regulations amend the Education (Remission of Charges Relating to Residential Trips) (Wales) Regulations 2003 to add an additional benefit or allowance which entitles the child of a claimant to claim free board and lodging on a residential trip.

The receipt of Universal Credit on or after 15 November 2013 is prescribed for the purposes of section 457 of the Education Act 1996.

Constitutional and Legislative Affairs Committee Draft Report CLA(4)-26-13

CLA326 – The Fruit Juices and Fruit Nectars (Wales) Regulations 2013

These Regulations implement Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption. They revoke and replace the Fruit Juices and Fruit Nectars (Wales) Regulations 2003 (S.I. 2003/3041 (W. 286)), as amended.

Procedure: Negative

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument

Regulation 9(2)(a) refers to ‘the language provided for in column 2’ of Schedule 12. That column does not refer to languages, but to specific expressions in various languages, and without specifying the languages in question. [Standing Order 21.2(vi) – Defective drafting]

Regulation 13(c) refers to ‘acidifying agents permitted by Regulation 1333/2008’. That Regulation makes no reference to ‘acidifying agents’, so the meaning is uncertain. [Standing Order 21.2(v) -that its meaning requires further explanation.]

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument

Legal Advisers

Constitutional and Legislative Affairs Committee

November 2013

2013 No. 2750 (W. 267)

FOOD, WALES

**The Fruit Juices and Fruit Nectars
(Wales) Regulations 2013**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Wales, implement Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption (OJ No. L 10, 12.1.2002, p.58), as last amended by Directive 2012/12/EU (OJ No L 115, 27.4.2012, p.1). They revoke and replace the Fruit Juices and Fruit Nectars (Wales) Regulations 2003 (S.I. 2003/3041 (W. 286)), as amended.

The Regulations regulate the use of the names fruit juice (regulation 4 and Schedules 2 and 11), fruit juice from concentrate (regulation 5 and Schedules 3 and 13), concentrated fruit juice (regulation 6 and Schedule 4), water extracted fruit juice (regulation 7 and Schedule 5), dehydrated fruit juice and powdered fruit juice (regulation 8 and Schedule 6) and fruit nectar (regulation 9 and Schedules 7 and 12).

They lay down what additional ingredients and substances may be added to regulated products (Schedules 8 and 9) and what treatments the products may undergo in their manufacture (Schedule 10).

They require certain particulars to be indicated when trading in regulated products, including—

- (a) a requirement to indicate the kinds of fruits, or (in some cases) the number of kinds of fruits, used to make a regulated product (regulation 10);
- (b) an indication of whether extra pulp and cells have been added to a fruit juice (regulation 11);
- (c) a requirement for a fruit juice made from a mixture of fruit juice and fruit juice from concentrate to indicate that it is partially made from concentrate or concentrates (regulation 12);

- (d) a requirement to indicate any added lemon juice, lime juice or acidifying agents in a concentrated fruit juice that is not intended for delivery to the final consumer (regulation 13); and
- (e) various indications for a fruit nectar, including an indication of its fruit content (regulation 14).

The Regulations make provision relating to the manner in which the particulars required by these Regulations should be marked or labelled (regulation 15).

These Regulations impose an obligation on food authorities to enforce the Regulations (regulation 16).

The Regulations apply with modifications subsections (1) and (2) of section 10 of the Food Safety Act 1990 (1990 c.16), enabling an improvement notice to be served to require compliance with specified provisions of these Regulations (regulation 17). The provisions, as applied, make the failure to comply with an improvement notice an offence. In addition, the Regulations apply with modifications subsections (1) and (6) of section 37, and section 39, of the Food Safety Act 1990 enabling a decision to serve an improvement notice to be appealed (regulation 18).

The Regulations also apply certain other provisions of the Food Safety Act 1990, with modifications (regulation 19 and Schedule 14).

The Regulations also provide for the revocation of certain legislation (regulation 20), consequential amendments (regulation 21 and Schedule 15) and transitional provisions (regulation 22).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Food Standards Agency at Food Standards Agency Wales, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW or from the Agency's website at www.food.gov.uk/wales.

2013 No. 2750 (W. 267)

FOOD, WALES

**The Fruit Juices and Fruit Nectars
(Wales) Regulations 2013**

Made 25 October 2013

Laid before the National Assembly for Wales
28 October 2013

Coming into force 20 November 2013

CONTENTS

1. Title, application, commencement and expiry
2. Definitions of “fruit juice” and similar products
3. General interpretation
4. Use of the name fruit juice
5. Use of the name fruit juice from concentrate
6. Use of the name concentrated fruit juice
7. Use of the name water extracted fruit juice
8. Use of the name dehydrated fruit juice and powdered fruit juice
9. Use of the name fruit nectar
10. Indication of kinds of fruits used
11. Indication of added extra pulp and cells
12. Labelling of a fruit juice partially made from concentrate
13. Labelling of concentrated fruit juice not intended for delivery to the final consumer
14. Labelling of a fruit nectar
15. Manner of marking or labelling
16. Enforcement
17. Improvement notice – application of subsections (1) and (2) of section 10 of the Act

18. Appeal against improvement notice – application of subsections (1) and (6) of section 37, and section 39, of the Act
19. Application of other provisions of the Act
20. Revocations
21. Consequential amendments
22. Transitional provisions

- SCHEDULE 1 — Ambulatory references
- SCHEDULE 2 — Specification for fruit juice
- SCHEDULE 3 — Specification for fruit juice from concentrate
- SCHEDULE 4 — Specification for concentrated fruit juice
- SCHEDULE 5 — Specification for water extracted fruit juice
- SCHEDULE 6 — Specification for dehydrated fruit juice and powdered fruit juice
- SCHEDULE 7 — Specification for fruit nectar
- PART 1 — General specification for fruit nectar
- PART 2 — Minimum juice and purée content of fruit nectars
- SCHEDULE 8 — Authorised additional ingredients
- SCHEDULE 9 — Authorised additional substances
- SCHEDULE 10 — Authorised treatments
- SCHEDULE 11 — Alternative designations for fruit juice
- SCHEDULE 12 — Alternative designations for fruit nectar
- SCHEDULE 13 — Minimum Brix levels for a fruit juice from concentrate
- SCHEDULE 14 — Application of other provisions of the Act
- SCHEDULE 15 — Consequential amendments

The following Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972⁽¹⁾ and it appears to the Welsh Ministers that it is expedient for any reference in the following Regulations to an EU instrument listed in Schedule 1 to be construed as a reference to that instrument as amended from time to time.

The Welsh Ministers are designated⁽²⁾ for the purposes of section 2(2) of the European Communities Act 1972 in relation to food (including drink) including the primary production of food.

Insofar as the following Regulations are made in exercise of powers under the Food Safety Act 1990⁽³⁾, the Welsh Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A)⁽⁴⁾ of that Act.

There has been consultation 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⁽⁵⁾.

The Welsh Ministers make the following Regulations in exercise of the powers conferred by—

- (a) paragraph 1A of Schedule 2 to the European Communities Act 1972⁽⁶⁾, so far as relating to regulation 3(3) and Schedule 1;
- (b) section 4(1), (2), (3), (4) and (8) and section 10 of the Healthy Eating in Schools (Wales) Measure 2009⁽⁷⁾ so far as relating to—
 - (i) regulation 21, to the extent it relates to paragraph 2 of Schedule 15, and

(1) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(2) S.I. 2003/2901, to which there are amendments not relevant to these Regulations. Functions conferred on the National Assembly for Wales were subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32).

(3) 1990 c. 16.

(4) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999 (c. 28).

(5) OJ No L 31, 1.2.2002, p.1, last amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No. L 188, 18.7.2009, p.14).

(6) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by S.I. 2007/1388 and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008.

(7) 2009 nawm 3.

- (ii) paragraph 2 of Schedule 15; and
- (c) sections 6(4)(1), 16(1)(a) and (e), 17(1), 26(1)(a) and (3)(2) and 48(1)(3) of the Food Safety Act 1990(4), now vested in the Welsh Ministers(5), so far as relating to the other provisions of these Regulations.

Title, application, commencement and expiry

1.—(1) The title of these Regulations is the Fruit Juices and Fruit Nectars (Wales) Regulations 2013 and they apply in relation to Wales.

(2) These Regulations come into force on 20 November 2013.

(3) Regulation 15 ceases to have effect on 13 December 2014.

Definitions of “fruit juice” and similar products

2.—(1) In these Regulations “fruit juice” (“*sudd ffrwythau*”) means (unless the context otherwise requires) a product that complies with the specification in Schedule 2.

(2) In these Regulations—

- (a) “fruit juice from concentrate” (“*sudd ffrwythau o ddwysfwyd*”) means a product that complies with the specification in Schedule 3;
- (b) “concentrated fruit juice” (“*sudd ffrwythau wedi ei ddwysáu*”) means a product that complies with the specification in Schedule 4;
- (c) “water extracted fruit juice” (“*sudd ffrwythau y tynnwyd dŵr ohono*”) means a product that complies with the specification in Schedule 5; and
- (d) “dehydrated fruit juice” (“*sudd ffrwythau dadhydredig*”) or “powdered fruit juice” (“*sudd ffrwythau powdr*”) means a product that complies with the specification in Schedule 6.

-
- (1) Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40), paragraph 10(1) and (3) of Schedule 5, and Schedule 6, to the Food Standards Act 1999, and S.I. 2002/794.
 - (2) Section 26(3) was partially repealed by Schedule 6 to the Food Standards Act 1999.
 - (3) Section 48(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999.
 - (4) 1990 c.16.
 - (5) Section 48(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999.
Functions formerly exercisable by “the Ministers” so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the Food Standards Act 1999, and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) In these Regulations “fruit nectar” (“*neithdar ffrwythau*”) means a product that complies with the specification in Schedule 7.

General interpretation

3.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990;

“authorised additional ingredient” (“*cynhwysyn ychwanegol awdurdodedig*”) means an additional ingredient listed in Schedule 8;

“authorised additional substance” (“*sylwedd ychwanegol awdurdodedig*”) means an additional substance listed in Schedule 9;

“authorised treatment” (“*triniaeth awdurdodedig*”) means a treatment listed in Schedule 10;

“concentrated fruit purée” (“*piwri ffrwythau wedi ei ddwysáu*”) means the product obtained from fruit purée by the removal of a specific proportion of its water content, and in respect of which, if flavour has been restored to it, such flavour has been recovered from the same species of fruit;

“Directive 2001/112/EC” (“*Cyfarwyddeb 2001/112/EC*”) means Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption⁽¹⁾;

“flavour” (“*blas*”), except in paragraph 1 of Schedule 2 and Part 2 of Schedule 7, means flavour for restoration—

(a) that is obtained during the processing of fruit by applying suitable physical processes (including squeezing, extraction, distillation, filtration, adsorption, evaporation, fractionation and concentration) to obtain, retain, preserve or stabilise the flavour quality, and

(b) that is cold-pressed oil from citrus peel or compounds from the stones of fruit or obtained from the edible parts of the fruit ;

“fruit” (“*ffrwyth*”, “*ffrwythau*”) means any kind of fruit (including tomatoes) that is sound, appropriately mature and fresh or preserved by—

(a) physical means, or

(b) a treatment, including a post-harvest treatment;

(1) OJ No. L 10, 12.1.2002, p.58, last amended by Directive 2012/12/EU of the European Parliament and of the Council (OJ No. L 115, 27.4.2012, p.1).

“fruit purée” (“*piwri ffrwythau*”) means the fermentable but unfermented product obtained by suitable physical processes such as sieving, grinding or milling the edible part of whole or peeled fruit without removing the juice;

“honey” (“*mêl*”) has the meaning given in point 1 of Annex I to Council Directive 2001/110/EC relating to honey(1);

“in trade” (“*mewn masnach*”) has the same meaning as in Directive 2001/112/EC and cognate expressions are to be construed accordingly;

“pulp or cells” (“*mwydion neu gelloedd*”) means—

- (a) in respect of citrus fruit, the juice sacs obtained from the endocarp, or
- (b) in respect of any other fruit, the products obtained from the edible parts of the fruit without removing the juice;

“Regulation 1935/2004” (“*Rheoliad 1935/2004*”) means Regulation (EC) No 1935/2004 of the European Parliament and of the Council on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC(2);

“Regulation 1333/2008” (“*Rheoliad 1333/2008*”) means Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives(3);

“regulated product” (“*cynmyrch rheoleiddiedig*”) means any of the following—

- (a) a fruit juice;
- (b) a fruit juice from concentrate;
- (c) a concentrated fruit juice;
- (d) a water extracted fruit juice;
- (e) a dehydrated fruit juice;
- (f) a powdered fruit juice;
- (g) a fruit nectar; and

“sugars” (“*siwgrau*”) means any of the following—

- (a) sugars as defined by Council Directive 2001/111/EC relating to certain sugars intended for human consumption(4);
- (b) fructose syrup;

(1) OJ No. L 10, 12.1.2002, p.47, as read with the corrigendum published in OJ No L 52, 21.2.2007, p.16.

(2) OJ No. L 338, 13.11.2004, p.4, last amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ No. L 188, 18.7.2009, p.14).

(3) OJ No L 354, 31.12.2008, p.16, last amended by Commission Regulation (EU) No 913/2013 (OJ No. L 252, 24.9.2013, p.11).

(4) OJ No. L 10, 12.1.2002, p.53, to which there are corrigenda not relevant to the English version of the Directive.

(c) sugars derived from fruits.

(2) Any other expression not defined in these Regulations and used in these Regulations and Directive 2001/112/EC has the same meaning in these Regulations as in that Directive.

(3) In these Regulations, any reference to an EU instrument listed in Schedule 1 is a reference to that instrument as amended from time to time.

Use of the name fruit juice

4.—(1) A person trading in a fruit juice must use the name “[x] juice” as the name of the product with the relevant name of the fruit from which the juice comes substituting “[x]” in accordance with regulation 10.

(2) But paragraph (1) does not prevent a name listed in column 2 of Schedule 11 being used as the name of a fruit juice provided that—

- (a) the name is in the language provided for in column 2 of that Schedule, and
- (b) the fruit juice meets the requirements of the corresponding product description in column 3 of that Schedule.

(3) A person must not use the name “fruit juice”, or “juice” together with the name of a fruit, in trade, as the name of a product if the product is not fruit juice.

Use of the name fruit juice from concentrate

5.—(1) A person trading in a fruit juice from concentrate must use the name “[x] juice from concentrate” as the name of the product with the relevant name of the fruit from which the juice comes substituting “[x]” in accordance with regulation 10.

(2) A person must not use the name “fruit juice from concentrate”, or “juice from concentrate” together with the name of a fruit, in trade, as the name of a product if the product is not fruit juice from concentrate.

Use of the name concentrated fruit juice

6.—(1) A person trading in a concentrated fruit juice must use the name “concentrated [x] juice” as the name of the product with the relevant name of the fruit from which the juice comes substituting “[x]” in accordance with regulation 10.

(2) A person must not use the name “concentrated fruit juice”, or “concentrated juice” together with the name of a fruit, in trade, as the name of a product if the product is not concentrated fruit juice.

Use of the name water extracted fruit juice

7.—(1) A person trading in a water extracted fruit juice must use the name “water extracted [x] juice” as

the name of the product with the relevant name of the fruit from which the juice comes substituting “[x]” in accordance with regulation 10.

(2) A person must not use the name “water extracted fruit juice”, or “water extracted juice” together with the name of a fruit, in trade, as the name of a product if the product is not water extracted fruit juice.

Use of the name dehydrated fruit juice and powdered fruit juice

8.—(1) A person trading in a product that complies with the specifications in Schedule 6 must use the name “dehydrated [x] juice” or “powdered [x] juice” as the name of the product with the relevant name of the fruit from which the juice comes substituting “[x]” in accordance with regulation 10.

(2) A person must not use the name “dehydrated fruit juice” or “powdered fruit juice”, or “dehydrated juice” or “powdered juice” together with the name of a fruit, in trade, as the name of a product if the product does not comply with the specifications in Schedule 6.

Use of the name fruit nectar

9.—(1) A person trading in a fruit nectar must use the name “[x] nectar” as the name of the product with the relevant name of the fruit from which the nectar comes substituting “[x]” in accordance with regulation 10.

(2) But paragraph (1) does not prevent a name listed in column 2 of Schedule 12 being used as the name of a fruit nectar provided that—

- (a) the name is in the language provided for in column 2 of that Schedule, and
- (b) the fruit nectar meets the requirements of any corresponding product description in column 3 of that Schedule.

(3) A person must not use the name “fruit nectar”, or “nectar” together with the name of a fruit, in trade, as the name of a product if the product is not fruit nectar.

Indication of kinds of fruits used

10.—(1) A person must not trade in a regulated product unless the name of the product indicates the kinds of fruit from which it has come in accordance with paragraphs (2) to (7).

(2) If a regulated product is manufactured from a single kind of fruit, the name of that fruit must substitute “[x]” in the product name.

(3) If a regulated product is manufactured from two kinds of fruit (excluding the use of one or more of lemon juice, lime juice, concentrated lemon juice and concentrated lime juice in accordance with paragraph 3

of Schedule 8), a list of the names of the fruits used must substitute the “[x]” in the product name.

(4) If a regulated product is manufactured from three or more kinds of fruit (excluding the use of one or more of lemon juice, lime juice, concentrated lemon juice and concentrated lime juice in accordance with paragraph 3 of Schedule 8), the “[x]” in the product name must be substituted by—

- (a) a list of the names of the fruits used;
- (b) the words “several fruits” or similar wording; or
- (c) the number of kinds of fruit used.

(5) For the purposes of paragraph (3) and (4)(a), the list of the names of the fruits must be set out in descending order by volume of the juices or purées included from each kind of fruit, as indicated in the list of ingredients.

(6) Where a species of fruit listed in column 2 of Schedule 13 is used in the preparation of a fruit juice, fruit purée or fruit nectar, the name given as the name of the fruit in the product name in accordance with the requirements of this regulation must be—

- (a) the common name for the fruit specified in column 1 of Schedule 13, or
- (b) the botanical name for the fruit specified in column 2 of Schedule 13.

(7) In the case of any other species of fruit used in the preparation of a fruit juice, fruit purée or fruit nectar, the name given as the name of the fruit in the product name in accordance with the requirements of this regulation must be—

- (a) the common name for the fruit, or
- (b) the botanical name for the fruit.

(8) In this regulation any reference to the “[x]” in a product name must be construed taking into account the provisions relating to product names in regulations 4 to 9.

Indication of added extra pulp and cells

11.—(1) A person must not trade in a fruit juice to which there has been added extra pulp or cells unless its labelling indicates such addition.

(2) In paragraph (1), “fruit juice” (“*sudd ffrwythau*”) has the same meaning as in the second sub-paragraph of point 5 of Article 3 of Directive 2001/112/EC.

Labelling of a fruit juice partially made from concentrate

12.—(1) A person must not trade in a fruit juice that contains a mixture of fruit juice and fruit juice from concentrate unless its labelling bears the words

“partially from concentrate” or, as the case may be, “partially from concentrates”.

(2) The wording required by paragraph (1) must appear close to the product name in characters that are clearly visible and stand out well from the background against which it appears.

Labelling of concentrated fruit juice not intended for delivery to the final consumer

13. A person must not trade in a concentrated fruit juice that is not intended for delivery to the final consumer unless it indicates on its packaging, on a label attached to its packaging or in an accompanying document, of the presence and quantity in it of any of the following—

- (a) added lemon juice,
- (b) added lime juice,
- (c) acidifying agents permitted by Regulation 1333/2008.

Labelling of a fruit nectar

14.—(1) A person must not trade in a fruit nectar unless the labelling of the product complies with paragraphs (2) to (8).

(2) The labelling of a fruit nectar must indicate the minimum content of fruit juice, fruit purée or mixture of fruit juice and fruit purée that it contains, using the words “fruit content: [x]% minimum” with the appropriate figure being substituted for “[x]”.

(3) The wording required by paragraph (2) must be located in the same field of vision as the product name.

(4) The labelling of a fruit nectar obtained wholly from one or more concentrated products must bear the words “from concentrate” or, as the case may be, “from concentrates”.

(5) The labelling of a fruit nectar obtained partly from one or more concentrated products must bear the words “partially from concentrate” or, as the case may be, “partially from concentrates”.

(6) The wording required by paragraphs (4) and (5) must appear close to the product name in characters that are clearly visible and stand out well from the background against which it appears.

(7) A claim stating that sugars have not been added to a fruit nectar, or any claim likely to have the same meaning for the consumer, may not be made unless the product does not contain any added monosaccharides or disaccharides or any other food used for its sweetening properties, including sweeteners as defined in Regulation 1333/2008.

(8) Where a claim stating that sugars have not been added to a fruit nectar, or any claim likely to have the

same meaning for the consumer, is made and sugars are naturally present in the fruit nectar, the words “contains naturally occurring sugars” must also appear on the label.

Manner of marking or labelling

15.—(1) Regulations 35(1), 36(1), (5) and 38 of the Food Labelling Regulations 1996⁽¹⁾ (which relate to the manner of marking or labelling of food) apply to the particulars with which a regulated product is required to be marked or labelled by the provisions of these Regulations listed in paragraph (2).

(2) The provisions are—

- (a) regulation 10(1);
- (b) regulation 11(1);
- (c) regulation 12(1);
- (d) regulation 13;
- (e) regulation 14(1), as read with regulation 14(2), (4), (5) and (8).

Enforcement

16. It is the duty of each food authority within its area to enforce these Regulations.

Improvement notice – application of subsections (1) and (2) of section 10 of the Act

17.—(1) Subsections (1) and (2) of section 10 of the Act (improvement notices) apply for the purposes of these Regulations with the following modifications.

(2) For subsection (1), substitute—

“(1) If an authorised officer of an enforcement authority has reasonable grounds for believing that a person is failing to comply with a provision of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013 specified in subsection (1A), the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)—

- (a) state the officer’s grounds for believing that the person is failing to comply with the relevant provision;
- (b) specify the matters which constitute the person’s failure so to comply;
- (c) specify the measures which, in the officer’s opinion, the person must take in order to secure compliance; and

(1) S.I. 1996/1499, relevant amending instruments are S.I. 1999/747, 2000/1925 (W.134), and 2001/1232 (W.66).

- (d) require the person to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.

(1A) The provisions are—

- (a) regulation 4(1), as read with regulation 4(2);
- (b) regulation 4(3);
- (c) regulation 5(1) or (2);
- (d) regulation 6(1) or (2);
- (e) regulation 7(1) or (2);
- (f) regulation 8(1) or (2);
- (g) regulation 9(1), as read with regulation 9(2);
- (h) regulation 9(3);
- (i) regulation 10(1);
- (j) regulation 11(1);
- (k) regulation 12;
- (l) regulation 13;
- (m) regulation 14(1);
- (n) regulation 15.”.

Appeal against improvement notice – application of subsections (1) and (6) of section 37, and section 39, of the Act

18.—(1) Subsections (1) and (6) of section 37 of the Act (appeals) apply for the purposes of these Regulations with the following modifications—

- (a) for subsection (1), substitute—

“(1) Any person who is aggrieved by a decision of an authorised officer of an enforcement authority to serve an improvement notice under section 10(1), as applied and modified by regulation 17 of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013, may appeal to the magistrates’ court.”; and

- (b) in subsection (6) for “(3) or (4)”, substitute “(1)”.

(2) Section 39 of the Act (appeals against improvement notices) applies for the purposes of these Regulations with the following modifications—

- (a) for subsection (1), substitute—

“(1) On an appeal against a decision of an authorised officer of an enforcement authority to serve an improvement notice under section 10(1), as applied and modified by regulation 17 of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013, the court may either cancel or

affirm the notice, and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.”; and

- (b) in subsection (3), omit “for want of prosecution”.

Application of other provisions of the Act

19. The provisions of the Act specified in column 1 of Schedule 14 apply with the modifications specified in column 2 of that Schedule for the purposes of these Regulations.

Revocations

20.—(1) The following Regulations are revoked—

- (a) the Fruit Juices and Fruit Nectars (Wales) Regulations 2003⁽¹⁾;
- (b) the Fruit Juices and Fruit Nectars (Wales) (Amendment) Regulations 2011⁽²⁾.

(2) Regulation 9 of the Food Enzymes (Wales) Regulations 2009⁽³⁾ is revoked.

Consequential amendments

21. Schedule 15 has effect.

Transitional provisions

22.—(1) An authorised officer of an enforcement authority must not serve an improvement notice under section 10(1) of the Act, as applied and modified by regulation 17, before 28th April 2015 if—

- (a) the improvement notice would relate to food that was placed on the market or labelled, before 28 October 2013, and
- (b) the matters constituting the alleged contravention would not have constituted an offence under the Fruit Juices and Fruit Nectars (Wales) Regulations 2003 as they stood immediately before 28 October 2013.

(2) Before 28 October 2016, the following statement may appear on the label of a fruit juice, a fruit juice from concentrate, a concentrated fruit juice, a water extracted fruit juice or a dehydrated or powdered fruit juice, in the same field of vision as the name of the product—

(1) S.I. 2003/3041 (W. 286) relevant amending instruments are S.I. 2009/3377 (W.299), and S.I. 2011/700 (W. 107).
(2) S.I. 2011/700 (W. 107).
(3) S.I. 2009/3377 (W.299).

“from 28 April 2015 no fruit juices contain added sugars”(1).

Mark Drakeford

Minister for Health and Social Services, one of the
Welsh Ministers

25 October 2013

(1) As regards the 28 April 2015 date in the statement, *see* the corrigendum correcting Article 3(2) of Directive 2012/12/EU published in OJ L 31, 31.1.2013, p.83.

SCHEDULE 1 Regulation 3(3)

Ambulatory references

The EU instruments that must be construed as amended from time to time are—

- (a) Council Directive 98/83/EC on the quality of water intended for human consumption⁽¹⁾;
- (b) Council Directive 2001/110/EC;
- (c) Council Directive 2001/111/EC;
- (d) Directive 2001/112/EC;
- (e) Regulation 1935/2004;
- (f) Regulation (EC) No 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods⁽²⁾;
- (g) Regulation (EC) No 1332/2008 of the European Parliament and of the Council on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97⁽³⁾; and
- (h) Regulation 1333/2008.

SCHEDULE 2 Regulation 2(1)

Specification for fruit juice

1. Fruit juice is the fermentable but unfermented product obtained from the edible part of fruit which is sound and ripe, fresh or preserved by chilling or freezing of one or more kinds mixed together having the characteristic colour, flavour and taste typical of the juice of the fruit from which it comes.

2. As well as the ingredient mentioned in paragraph 1, and subject to entries 4 and 7 of Schedule 11, the product may contain any of the following—

-
- (1) OJ No. L 330, 5.12.1998, p.32, last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (OJ No L 188, 18.7.2009, p.14).
 - (2) OJ No L 404, 30.12.2006, p 26, last amended by Regulation (EU) No. 1169/2011 of the European Parliament and of the Council (OJ No L 304, 22.11.2011, p.18).
 - (3) OJ No. L 354, 31.12.2008, p 7, last amended by Commission Regulation (EU) No. 1056/2012 (OJ No. L 313, 13.11.2012, p. 9).

- (a) an authorised additional ingredient;
- (b) an authorised additional substance;
- (c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit;
- (d) in the case of grape juice, restored salts of tartaric acids; and
- (e) in the case of tomato juice, salt, spices and aromatic herbs.

3. In the case of citrus fruits, except for lime, the fruit juice must come from the endocarp.

4. In the case of lime juice, the fruit juice must come from the endocarp or the whole fruit.

5. Where a juice is processed from a fruit with pips, seeds and peel, parts or components of pips, seeds and peel must not be incorporated in the juice.

6. Paragraph 5 does not apply in a case where parts or components of pips, seeds and peel cannot be removed by good manufacturing practices.

7. Fruit juice may be mixed with fruit purée in the production of the fruit juice.

8. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

9. The Brix level of the product must be the Brix level of the juice as extracted from the fruit and must not be modified, except by blending with the juice of the same species of fruit.

SCHEDULE 3 Regulation 2(2)(a)

Specification for fruit juice from concentrate

1. Fruit juice from concentrate is the product obtained by reconstituting concentrated fruit juice with potable water that meets the criteria set out in Council Directive 98/83/EC.

2. In a case where a fruit juice from concentrate is manufactured from a fruit specified in column 2 of Schedule 13, the soluble solids content of the finished product must have a Brix level of at least the level specified in the corresponding entry in column 3 of that Schedule, as read together with the Notes to that Schedule.

3. In a case where a fruit juice from concentrate is manufactured from a fruit that is not specified in column 2 of Schedule 13, the soluble solids content of the finished product must have a Brix level of the juice

as extracted from the fruit used to make the concentrate.

4. The product must be prepared by suitable processes that maintain the essential physical, chemical, organoleptical and nutritional characteristics of an average type of juice of the fruit from which it comes.

5. In the production of the product, concentrated fruit juice, or both fruit juice and concentrated fruit juice, may be mixed with—

- (a) fruit purée;
- (b) concentrated fruit purée; or
- (c) both fruit purée and concentrated fruit purée.

6. As well as the ingredients mentioned in paragraphs 1 and 5, the product may contain any of the following—

- (a) an authorised additional ingredient;
- (b) an authorised additional substance;
- (c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit; and
- (d) in the case of tomato juice from concentrate, salt, spices and aromatic herbs.

7. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

8. Any reference to a Brix level in this Schedule is a reference to the Brix level of a juice exclusive of the soluble solids of any added optional ingredients and additives.

SCHEDULE 4 Regulation 2(2)(b)

Specification for concentrated fruit juice

1. Concentrated fruit juice is the product obtained from fruit juice of one or more fruit species by the physical removal of a specific proportion of its water content.

2. Where the product is intended for direct consumption, the proportion of water content removed must be at least 50%.

3. As well as the ingredients mentioned in paragraph 1, the product may contain any of the following—

- (a) an authorised additional ingredient;
- (b) an authorised additional substance; and
- (c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit.

4. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

SCHEDULE 5 Regulation 2(2)(c)

Specification for water extracted fruit juice

1. Water extracted fruit juice is the product obtained by diffusion with water of—

- (a) pulpy whole fruit whose juice cannot be extracted by any physical means; or
- (b) dehydrated whole fruit.

2. As well as the ingredients mentioned in paragraph 1, the product may contain either, or both, of the following—

- (a) an authorised additional ingredient; and
- (b) an authorised additional substance.

3. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

SCHEDULE 6 Regulations 2(2)(d)

Specification for dehydrated fruit juice and powdered fruit juice

1. Dehydrated fruit juice or powdered fruit juice is the product obtained from fruit juice of one or more fruit species by the physical removal of virtually all of its water content.

2. As well as the ingredients mentioned in paragraph 1, the product may contain either, or both, of the following—

- (a) an authorised additional ingredient; and
- (b) an authorised additional substance.

3. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

SCHEDULE 7 Regulation 2(3)

Specification for fruit nectar

PART 1

General specification for fruit nectar

1. Fruit nectar is the fermentable but unfermented product that is obtained by adding water to a juice

listed in paragraph 2 either with or without one or both of the substances listed in paragraph 3.

2. The juices are—

- (a) fruit juice;
- (b) fruit juice from concentrate;
- (c) concentrated fruit juice;
- (d) water extracted fruit juice;
- (e) dehydrated fruit juice;
- (f) powdered fruit juice;
- (g) fruit purée;
- (h) concentrated fruit purée; or
- (i) any mixture of the products mentioned in subparagraphs (a) to (h).

3. The substances are—

- (a) sugars, and
- (b) honey.

4. The amount of sugars or honey, or sugars and honey, added to the product in accordance with paragraph 1 must not exceed 20% of the total weight of the finished product.

5. The product must contain the minimum content of fruit juice, fruit purée, or a mixture of such juice and purée, specified in Part 2.

6. Where the product is manufactured without added sugar or with reduced energy value, sugars may be replaced wholly or partially by sweeteners in accordance with the requirements of Regulation 1333/2008.

7. As well as the ingredients mentioned in paragraphs 1, 2, 3, 5 and 6, the product may contain any of the following—

- (a) an authorised additional ingredient;
- (b) an authorised additional substance;
- (c) restored flavour, pulp and cells (or any one or more of them) obtained by suitable physical means from the same species of fruit; and
- (d) sweeteners (which may be added in addition to any sugar or honey added in accordance with paragraph 1 as read with paragraph 3).

8. No treatment, except for an authorised treatment, may be used in the manufacture of a product.

PART 2

Minimum juice and purée content of fruit nectars

<i>Fruit nectars made from</i>	<i>Minimum juice, purée or juice and purée content (% by volume of finished product)</i>
1. Fruit nectars made from fruits with acidic juice unpalatable in the natural state	
Apricots	40
Bilberries	40
Blackberries	40
Blackcurrants	25
Cranberries	30
Elderberries	50
Gooseberries	30
Lemons and Limes	25
Mulberries	40
Passion fruit	25
Plums	30
Quetsches	30
Quinces	50
Quito naranjillos	25
Raspberries	40
Redcurrants	25
Rose hips	40
Rowanberries	30
Seabuckthorn berries	25
Sloes	30
Sour cherries	35
Other cherries	40
Strawberries	40
Whitecurrants	25
Other fruits belonging to this category	25
2. Low-acid, pulpy or highly-flavoured fruits with juice unpalatable in the natural state	
Azeroles (Neapolitan	25

<i>Fruit nectars made from</i>	<i>Minimum juice, purée or juice and purée content (% by volume of finished product)</i>
medlars)	
Bananas	25
Bullock's heart or custard apple	
Cashew fruits	25
Guavas	25
Lychees	25
Mangoes	25
Papayas	25
Pomegranates	25
Soursop	25
Spanish plums	25
Sugar apples	25
Umbu	25
Other fruits belonging to this category	25
<hr/>	
3. Fruits with juice palatable in the natural state	
Apples	50
Citrus fruits except lemons and limes	50
Peaches	50
Pears	50
Pineapples	50
Tomatoes	50
Other fruits belonging to this category	50

SCHEDULE 8 Regulation 3(1)

Authorised additional ingredients

1. Any vitamin or mineral authorised in accordance with Regulation (EC) No 1925/2006.
2. Any food additive authorised in accordance with Regulation 1333/2008.
3. Any one or more of the following juices (expressed as anhydrous citric acid) added for the purpose of regulating acidic taste if the total amount of such added juice does not exceed 3 grams per litre of the product—
 - (a) lemon juice;
 - (b) lime juice;
 - (c) concentrated lemon juice;
 - (d) concentrated lime juice.

SCHEDULE 9 Regulation 3(1)

Authorised additional substances

1. The following enzyme preparations meeting the requirements of Regulation (EC) No 1332/2008—
 - (a) pectinases, for the breakdown of pectin;
 - (b) proteinases, for the breakdown of proteins; and
 - (c) amylases, for the breakdown of starch.
2. Edible gelatine.
3. Tannins.
4. Silica sol.
5. Charcoal.
6. Nitrogen.
7. Bentonite as an adsorbent clay.
8. Chemically inert filtration aids and precipitation agents, including perlite, washed diatomite, cellulose, insoluble polyamide, polyvinylpyrrolidone, and polystyrene, which comply with Regulation 1935/2004.
9. Chemically inert adsorption aids which comply with Regulation 1935/2004 and which are used to reduce the limonoid and naringin content of citrus juice without significantly affecting the limonoid glucosides, acid, sugars (including oligosaccharides) or mineral content of such juice.

SCHEDULE 10 Regulation 3(1)

Authorised treatments

1. Mechanical extraction processes.

2. The usual physical processes, including in-line water extraction (diffusion) of the edible part of the fruit (except in-line water extraction (diffusion) in relation to grapes used in the manufacture of a concentrated fruit juice), if the juice obtained in this way complies with—

- (a) in the case of fruit juice, the requirements in Schedule 2; and
- (b) in the case of fruit juice from concentrate, the requirements in Schedule 3.

3. In the production of grape juice where sulphitation of the grapes with sulphur dioxide has been used, desulphitation by physical means if the total quantity of sulphur dioxide in the finished product does not exceed 10 mg per litre of the juice.

SCHEDULE 11 Regulation 4(2)

Alternative designations for fruit juice

<i>Column 1</i> <i>Entry</i>	<i>Column 2</i> <i>Designation</i>	<i>Column 3</i> <i>Product</i>
1.	“Süßmost”	The designation “Süßmost” may be used, but only in conjunction with the product name “Fruchtsaft” or “Fruchtnektar”, for a fruit juice obtained from— <ul style="list-style-type: none">(a) apples;(b) pears; or(c) pears with the addition of apples where appropriate.
2.	“æblemost”	Apple juice.
3.	“sur ... saft”, together with the name (in Danish) of the fruit used	Juices obtained from blackcurrants, cherries, redcurrants, whitecurrants, raspberries, strawberries or elderberries.
4.	“sød ... saft” or “sødet ... saft” together with the name (in Danish) of the fruit used	Juices obtained from the named fruit with more than 200 grams of added sugar per litre in the form of sugar, honey or both sugar and honey.
5.	“äppelmust/äp plemust”	Apple juice.

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Entry</i>	<i>Designation</i>	<i>Product</i>
6.	“mosto”	Synonym of grape juice.
7.	“smiltsērķšķu sula ar cukuru”, “astelpaju mahl suhkruga” or “słodzony sok z rokitnika”	Juices obtained from seabuckthorn berries with no more than 140 grams of added sugar per litre in the form of sugar, honey or both sugar and honey.

SCHEDULE 12 Regulation 9(2)

Alternative designations for fruit nectar

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Entry</i>	<i>Designation</i>	<i>Product</i>
1.	“vruchtendrank”	
2.	“Süßmost”	The designation “Süßmost” may be used, but only in conjunction with the product names “Fruchtsaft” or “Fruchtnektar”, for fruit nectar obtained exclusively from fruit juices, concentrated fruit juices or a mixture of these products, unpalatable in the natural state because of their high natural acidity.
3.	“succo e polpa” or “sumo e polpa”	Fruit nectars obtained exclusively from fruit purée or concentrated fruit purée or from both fruit purée and concentrated fruit purée.

SCHEDULE 13 Regulation 10(6)

Minimum Brix levels for a fruit juice from concentrate

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Common Name of the Fruit</i>	<i>Botanical Name</i>	<i>Minimum Brix level</i>
Apple (*)	<i>Malus domestica</i> Borkh.	11.2
Apricot (**)	<i>Prunus armeniaca</i> L.	11.2
Banana (**)	<i>Musa x paradisiaca</i> L. (excluding plantains)	21.0
Blackcurrant (*)	<i>Ribes nigrum</i> L.	11.0
Grape (*)	<i>Vitis vinifera</i> L. or hybrids thereof <i>Vitis labrusca</i> L. or hybrids thereof	15.9
Grapefruit (*)	<i>Citrus x paradisi</i> Macfad.	10.0
Guava (**)	<i>Psidium guajava</i> L.	8.5
Lemon (*)	<i>Citrus limon</i> (L.) Burm.f.	8.0
Mandarin (*)	<i>Citrus reticulata</i> Blanco	11.2
Mango (**)	<i>Mangifera indica</i> L.	13.5
Orange (*)	<i>Citrus sinensis</i> (L.) Osbeck	11.2
Passion Fruit (*)	<i>Passiflora edulis</i> Sims	12.0
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>	7.0

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Common Name of the Fruit</i>	<i>Botanical Name</i>	<i>Minimum Brix level</i>
(*)	L.	
Sour Cherry (*)	<i>Prunus cerasus</i> L.	13.5
Strawberry (*)	<i>Fragaria x ananassa</i> Duch.	7.0
Tomato (*)	<i>Lycopersicon esculentum</i> Mill.	5.0

Notes:

1. 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.

2. 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.

SCHEDULE 14 Regulation 19

Application of other provisions of the Act

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Fruit Juices and Fruit Nectars (Wales) Regulations 2013”.
Section 20 (offences due to fault of another person)	For “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 17(1) of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013,”.
Section 21(1) and (5) (defence of due diligence)	In subsection (1), for “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 17(1) of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013,”.
Section 30(8) (which relates to evidence of certificates given by a food analyst or examiner)	For “this Act” substitute “the Fruit Juices and Fruit Nectars (Wales) Regulations 2013”.

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place occurring) substitute “the Fruit Juices and Fruit Nectars (Wales) Regulations 2013”.
Section 35(1)(1) and (2) (punishment of offences)	In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 19 of, and Schedule 14 to, the Fruit Juices and Fruit Nectars (Wales) Regulations 2013,”. After subsection (1), insert the following subsection— “(1A) A person guilty of an offence under section 10(2), as applied by regulation 17(1) of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013, shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”. In subsection (2)— (a) for “any other offence under this Act”, substitute “an offence under section 33(2), as applied by regulation 19 of, and Schedule 14 to, the Fruit Juices and Fruit Nectars (Wales) Regulations 2013,”; and (b) in paragraph (b), for “relevant amount”, substitute “statutory maximum”.
Section 36 (offences by body corporate)	In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 17(1) of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013,”.

(1) Section 35(1) is amended by paragraph 42 of Schedule 26 to the Criminal Justice Act 2003 (c. 44) from a date to be appointed.

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 36A(1) (offences by Scottish partnerships)	In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 17(1) of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013,”.
Section 44 (protection of officers acting in good faith)	For “this Act” (in each place occurring) substitute “the Fruit Juices and Fruit Nectars (Wales) Regulations 2013”.

SCHEDULE 15 Regulation 21

Consequential amendments

Amendment of the Food Labelling Regulations 1996

1. Insert the following regulation after regulation 17 of the Food Labelling Regulations 1996(2)—

“Restoration of fruit juices and similar products

17A. The restoration of products defined in Part I of Annex I to Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption to their original state, by means of the substances strictly necessary for this operation, does not entail an obligation to enter on the labels a list of the ingredients used for the purpose of that restoration.”.

Amendment of the Healthy Eating in Schools (Nutritional Standards and Requirements)(Wales) Regulations 2013

2.—(1) The Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations 2013 (3) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “fruit juice” (“*sudd ffrwythau*”), for “Schedule 1 to the Fruit Juices and Fruit Nectars (Wales) Regulations 2003”, substitute “Schedule 3 to the Fruit Juices and Fruit Nectars (Wales) Regulations 2013”.

-
- (1) Section 36A was inserted by paragraph 16 of Schedule 5 to the Food Standards Act 1999.
- (2) S.I 1996/1499, to which there are amendments not relevant to these Regulations.
- (3) S.I.2013/1984 (W.194).

Explanatory Memorandum to the Fruit Juices and Fruit Nectars (Wales) Regulations 2013

This Explanatory Memorandum has been prepared by the Food Standards Agency (FSA) and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Member's Declaration

In my view the Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Fruit Juices and Fruit Nectars (Wales) Regulations 2013. I am satisfied that the benefits outweigh any costs.

Mark Drakeford, AM

Minister for Health and Social Services, one of the Welsh Ministers

25 October 2013

The Fruit Juices and Fruit Nectars (Wales) Regulations 2013

1. Description

The proposed Regulations revoke existing Fruit Juices and Fruit Nectars Regulations and replace them with a single Statutory Instrument. The Regulations also implement Council Directive 2012/12/EU into UK law.

2. Matter of Special Interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative Background

The powers enabling this instrument to be made are as follows:

- (a) Paragraph 1A of Schedule 2 to the European Communities Act 1972 (“the 1972 Act”), so far as relating to regulation and Schedule 1.
- (b) Section 4(1), (2), (3), (4) and (8) and section 10 of the Healthy Eating in Schools (Wales) Measure 2009 so far as relating to—
 - (i) regulation 21, to the extent it relates to paragraph 2 of Schedule 15, and
 - (ii) paragraph 2 of Schedule 15.
- (c) Sections 6(4), 16(1)(a) and (e), 17(1), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990 (“the 1990 Act”), so far as relating to the other provisions of these Regulations.

Functions under the 1972 Act and the 1990 Act, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the Food Standards Act 1999, and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006

There are no issues of regularity or propriety for the Welsh Government arising from the making of the 2013 Regulations.

4. Purpose and Intended Effect of the Legislation

EU rules on fruit juice are important to ensure that consumers make informed choices based on effective labelling. The rules help protect the consumer by ensuring any products described as a “fruit juice” will meet minimum legal compositional and labelling requirements. Council Directive 2001/112/EC relating to fruit juices and similar products lays down rules governing the composition and labelling of these products and has been implemented into English law by the Fruit Juices and Fruit Nectars (Wales) Regulations 2003. The Regulations lay down product definitions and reserved names by which juices can be called. Conditions for juice manufacture are also controlled by

laying down permitted raw materials and treatments and limiting the amount of ingredients and additives. One of the most significant changes brought by the 2001 Directive was the distinction between fruit juice and fruit juice from concentrate. Fruit juice can be made in two distinct ways. Firstly, it can be obtained directly from the pressing of the fruit, also commonly known as 'not from concentrate' (NFC) or sometimes by the trade as direct fruit juice. The Directive allows only this type of juice to use the reserved description "X juice" (where X represents a type of fruit). To minimise costs, juice may also be extracted and concentrated in the country of origin and then transported to processors in various countries, where it is reconstituted by the addition of the same amount of water as originally removed. This second type of juice is described as 'from concentrate' and the reserved description "X juice from concentrate" needs to be used. The distinction between the two types was a contentious issue and incurred significant costs on UK industry in re-labelling in 2003. However in subsequent years the European Commission, industry and all Member States were keen to see the Directive updated to take account of technical progress since its adoption in 2001 and to also bring it in line, where possible, with existing international standards for fruit juices, particularly the revised Codex Standard for fruit juices and nectars adopted in 2005.

A first series of amendments were adopted in 2009 by Commission Directive 2009/106/EC. These were implemented by the Fruit Juices and Fruit Nectars (Wales) (Amendment) Regulations 2011. This introduced new minimum Brix levels for fruit juices from concentrate largely in line with Codex. Brix levels are used in the food industry for measuring the approximate amounts of sugar in fruit juice. At that time the European Commission would have liked to further align the Directive with the Codex Standard but these additional amendments could only be made through the Ordinary Legislative Procedure, formerly co-decision. Agreement between the Council and European Parliament on a 2nd more detailed set of amendments was reached at the end of 2011. This IA is primarily concerned with the impacts of implementation of this 2nd set of revisions.

The revisions agreed include permitting aromas, which can be lost during processing, to be optionally added back as necessary, and preventing the addition of mandarin juice to orange juice without indicating this on the labelling. It also removes sugar from the list of authorised ingredients that can be added to fruit juice, includes tomatoes in the list of fruits that can be used for fruit juice production and permits freezing as an authorised way of storing fruit.

5. Consultation

A 6-week consultation from 25th July to 5th September 2013 was conducted seeking the views of stakeholders on the new SI and the costs and benefits estimated in the Consultation Stage IA. There were no responses to the consultation in Wales. A total of 4 responses were received to the consultation in England, two from local authority trading standards bodies and one representing the fruit juice industry British soft drinks association (BSDA) and the other the retailers British Retail Consortium (BRC). All four respondents offered general support to the introduction of the new Regulations. Some

reservations were expressed from 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. BRC questioned the move from criminal to civil sanctions as they felt the current enforcement system worked well

6. Regulatory Impact Assessment.

Costs and Benefits of the Options

This section sets out the familiarisation costs, reformulation and/or one-off labelling costs and benefits, and any recurring costs and benefits.

Industry views were gathered and represented through the BSDA which represents the vast majority of the fruit juice manufacturers in the UK. They have indicated that the revised Directive will not impact greatly on the sector. Overall, relatively small impacts should be associated with the proposed changes and that this new legislation would generally be cost neutral. The costs that do arise will principally be one off costs associated with meeting any re-labelling requirements and initial familiarisation with the new legislation.

Costs

New measures in 2012/12/EU

Familiarisation costs

Industry

Fruit juice and soft drinks manufacturers that produce fruit juice will need to read and become familiar with the requirements of the new Regulations. We estimate that it will take one production manager approximately 2 hours to read and become familiar with revised Regulations including Schedules. The average hourly rate is up rated by 30% to take account of overheads in line with standard cost model methodology, resulting in a median hourly wage rate of £26.

There were no fruit juice manufacturers although 15 soft drinks manufacturers located in Wales in 2012. If we make the assumption that these numbers would be representative for the life span of the policy, this means a total one-off familiarisation cost to industry of £783 (15*2*26.1), at an equivalent annual cost of £91

Public sector

One-Off Familiarisation Costs

Local authorities will also need to become familiar with the updated Regulations. It is estimated that it would take one Trading Standards officer (TSO), 2 hours to read and become familiar with the Regulations and disseminate them to key staff. The median hourly wage rate for a TSO is £21.01 , which yields a total one-off cost to the public sector of £924 (22*2*21.01) (there are 22 LAs in Wales), at an equivalent annual cost of £107.

Table 1: Familiarisation costs for trading standards officers in Wales.

	Number of Local Authorities	Median average hourly wage (uprated by 30%)	Total Familiarisation Cost	Equivalent Annual Cost
Wales	22	£21.01	£924	£107

Other Costs

The most significant changes are highlighted below along with a narrative assessment of the impacts of their costs and benefits. Where economic information is available for the changes, monetised costs and benefits have been included. These will be taken into account along with the overall costs and benefits outlined under the familiarisation costs and overall benefits of the Regulations.

1) Processes

Revision 1.1 (a): Move from mandatory to optional restoration of aromas in line with Codex.

Background

The current EU Directive requires mandatory restoration of aromas to all fruit juices and nectars. Restoration is necessary in fruit juice production because volatile flavouring components are lost during processing. In many cases these are collected during the production process and then added back to the juice to restore it to as far as possible its original state. However, it is recognised that there are technical difficulties in fully restoring all aromas to certain juices. For juices such as pineapple the aromas are of too poor quality to add back and would affect product quality. Grape juice from concentrate, which is widely used in fruit juice blends and juice drinks has no recovered aroma available. For many of the tropical juices such as mango, guava, passion fruit, papaya etc the aromas are not recovered or not available in sufficient quantities and fruits such as peach, pomegranate and cranberry also have little or no available aromas.

The reality of fruit juice processing was therefore to a certain extent at odds with the legal requirements of the Directive and the UKs desire to see a change to “optional” restoration was one of our main drivers. The move to optional restoration of aromas is also of significant trade benefit to the UK in helping resolve trade issues relating to UK orange and apple juices. For reasons of competitive product pricing and consumer

demand, some UK manufacturers did not add back certain high value aromas (orange and apple) for economy and value priced ranges resulting in some German testing laboratories considering the UK to be in breach of the Directive. The UK market is unique in Europe in this aspect, and value or economy products are a significant proportion of the market, representing approx 30% - 40% of the market. The Directive requires juices to be representative of an average juice but a lack of a definition for an average juice and the absence of accepted levels of aromas make the mandatory restoration provisions in the directive difficult to adhere to. The move from mandatory to optional restoration therefore brings clarity to the issue. Aroma restoration will still take place but it will allow industry to restore appropriately based on consumer preferences and the pricing and marketing strategy appropriate to the product in the market place.

Costs of the measure

Industry

Increased flexibility will remove the costs attributable to currently mandatory restoration of aromas. This measure will save costs rather than incur any new cost burden.

Consumers

It might be argued that such a relaxation in the rules could lead to a dilution in the quality but realistically this is not likely to be the case as manufacturers will want to sell quality juices that meet consumers differing tastes. There is also the possibility that some consumers may be indifferent to the inclusion of high value aromas or aromas at all and prefer products where some aromas are not restored. The addition of aromas will vary according to pricing and marketing strategies but all juices will still need to meet the minimum composition and labelling standards required by the Directive. Optional restoration allows for further product diversification and ensures that fruit juices remain affordable. Competitive pricing and diversification is essential to UK industry and are likely to be beneficial for the consumer. Fruit juice also counts as one of the five a day and enabling low income consumers continued access to a budget and economy-range juice is important.

Benefits of the measure

Industry

Manufacturers of value and economy range products who compete on small margins may choose not to restore all aromas, particularly those high end top notes. Industry has estimated that adding the additional top notes to fully restore aromas costs them around an extra 0.5p- 2p per litre. Industry has also informed us that the additional cost of restoring all the aromas is more likely to be at the lower end (0.5p/l) than the higher of the range (2p/l). Aroma costs are dependent on the nature of the aroma required for a

product but also on the availability, seasonality and crop yields. Using figures taken from the 2012 AIJN report and based on the assumption that all value/economy juices are ambient and private label from-concentrate juice, we can estimate a volume of 346 million litres or 30% market share by volume for economy juices. This could equate to cost savings for UK industry of between £1.73 million (at 0.5p per litre) and £6.92 (at 2p per litre) million per year if they chose not to fully restore all 346 million litres of value/economy juices. This assumes all juices in the category currently restore to comply with the current Regulations.

It is unlikely that all of the ambient private (mostly value/economy) range will continue restore aroma. For the purpose of this IA we assume around 80% of ambient and private label from concentrate juice will opt not to restore aromas. Consequently, the estimated cost savings are projected to be £1.38 million per annum and around 0.4% of the total value of the ambient and private label from concentrate juice sector. The BSDA response to the consultation suggested that our estimated benefits of not restoring aromas were not practically realisable as industry will maintain the status quo and carry on with current practices. However, we know that prior to discussions on revising the Directive industry did not always fully restore aromas to many value end orange and apple juices. Following concerns by Germany, UK industry reverted to fully restoring aromas to avoid any issues of compliance. One of the main reasons the UK sought amendment to the directive was to provide for optional restoration of aromas on the grounds that many aromas were unavailable but also to provide legal clarity around UK industry practices for those value end where all aromas are not restored. We believe that it is therefore valid to assume that most of those products at the value end of the market that earn profits from very small margins may revert to not restoring aromas and save costs. We have revised our estimates to reflect the lower end estimate of a potential 0.5p per litre saving previously given to us by industry. We do not accept that industry will not change some of their practices now that they have the legal freedom to do so.

There are a number of non-monetised benefits associated with this regulation:

- allows industry to respond to consumer demand for choice and to drive competition in the market;
- solves the problem of requiring manufacturers to introduce poor quality aromas;
- will resolve the difficulty of non-availability of tropical aromas and allows them to be added back as is practical and appropriate to the product. Juices which cannot be restored will now be compliant;
- will alleviate the trade difficulties recently encountered (particularly with Germany) because of questions around aromas compliance issues;
- allow more choice - aromas are used to differentiate between products and give products an identity which consumers then choose depending on their taste and price profiles;
- will protect economy range juices where for reasons of competitive pricing and consumer demand, high value aromas are costly to add back. Economy ranges

represent an important part of the UK market but are generally unique to the UK market place.

Overall, this change will benefit the industry through increased flexibility in how juices are manufactured with regards to aroma and flavour restoration. This change makes it easier for manufacturers to offer a broader range of products at a wider price range. Additionally, the legal clarity associated with optional restoration is crucial but difficult to attribute benefits (the avoided costs of trade disputes), but if a case was taken by another Member State (MS), the costs involved could be significant.

Consumers

The main benefits for consumers relate to improved choice. It is also assumed that any benefits accrued to businesses are passed on to consumers. Permitting the optional restoration of aromas means a more diverse range of products will be available as aromas help to differentiate products. Fruit aromas can be collected and refined in order to produce different aroma profiles so that brands can be marketed with different taste and aroma profiles. If legislation seeks to set inflexible aroma requirements then products could become uniform and reduce choice on the market place. In a competitive market, changes to ongoing business costs – such as a reduction in the costs of adding aromas – are passed on to consumers. Therefore the £1.38m savings to industry identified above may in fact be passed through to consumers in the form of lower prices.

Consumers will also benefit from the retention and viability of value or economy products which are a significant proportion of the UK market at approx 30% - 40%.

Consumers remain protected as juices still meet minimum standards.

1.1 (b) Permitting a new juice category - “water extracted fruit juice”.

A new reserved description has been added to allow juice products obtained through a water extraction process of a dried fruit to be able to be legally marketed as a juice. The current Directive contained no provision for a juice obtained by the process of water extraction of a dried fruit. This caused problems for juices sold in the UK as “prune juice” since under the terms of the Directive the reserved description “x juice” relies on the use of fruit that is “fresh, or preserved by chilling” for the juicing process. Fruit preserved by dehydration is not covered, probably due to the fact that prune juice is a relatively new product that was not produced in the EU when the Directive was being negotiated. However products must use the agreed reserved description “water extracted X juice” rather than just X juice. Water extracted juices are not a particularly large market in the UK and the Prune Juice market is estimated around 2.8million litres according to the BSDA in their response to the consultation.

Costs of the measure

Industry

There will be some relabelling associated with this inclusion as the name used will need to reflect the new reserved description “water extracted X juice” rather than simply a preferred “X juice”.

The average relabelling cost for 1 SKU is approximately £1,800. Information supplied by industry indicates that there will be very few individual product lines affected, approximately 2-3 branded products (Sunraisya, Sunsweet) and 2-3 own brand (Asda, Tesco, etc) so the scale for change is small, however for those lines that are affected the redesign and labelling changes will be small. For example we expect that approximate relabelling costs may be in the region of: 6 SKU x £1800 = £10,800.

We do not have data that is specific to Wales, but we can calculate an indicative estimate by using the proportion of soft drinks producers in Wales (7%, see paragraph 28). 7% of the total cost of £10,800 is £756 (EAC of £88).

Consumers

There will be negligible costs to consumers and the costs are unlikely to be passed on by manufacturers (as they are transitional rather than ongoing costs).

Benefits of the measure

Industry

At present, selling a product labelled as prune juice is technically illegal as these products are not authorised to be called juices. Providing for their inclusion will ensure a level playing field for these juices and allow industry to market them as juices a term which consumers probably already associate with these products. Prune juice is also associated with certain health benefits and becoming increasingly popular. Permitting its description as a juice may help increase its market and assist with future product diversification for other water extracted dried fruit. Alignment with Codex should also help industry avoid trade disputes or import difficulties in the naming of such products.

Consumers

Consumers will benefit from improved clarity around the naming of prune juice products and how they are obtained. Initially there may be a small amount of confusion around whether the product has changed given the name change from ‘Prune juice’ to ‘water extracted Prune juice’, however, this can be managed by education and some products already contain an explanation of how the prune juice is obtained so the change of product name may not be a significant factor. Given the more secure legal footing for industry the emergence of new types of water extracted juices may give consumers more choice.

1.1 (c) To permit the freezing of fruit as an approved method of preservation.

This amendment will allow the use of frozen fruit in fruit juice production. This is helpful to industry and recognises the technological need to allow the freezing of some fruits for practical reasons, particularly where processing facilities don't exist near the fruit farms in some developing countries. It will also help with juice availability of certain seasonal fruits and avoid a deterioration of fruit quality which might prevent its use in juice production. Overall however it is not expected that this will result in significant changes to current practices as most large scale juice production is well established and processing factories are located close to where the fruit is picked.

Costs of the measure

Industry

There is no cost to the industry associated with this measure as this simply gives industry the freedom to freeze certain types of fruit if necessary before processing which is currently not permitted.

Consumers

There will be no cost implications for consumers as this is about introducing more flexibility in the manufacturing and processing of raw materials.

Benefits of the measure

Industry

It has not been possible to monetise the benefits in relation to the freezing of fruits but it is likely to be very small as this measure is just providing flexibility for industry particularly for fruits processed in small volumes or where there are seasonality issues. Fruit processors may need to adapt some of their equipment which is currently geared for chilling to freezing. Overall it is expected that the majority of juice processing will remain unchanged with processing occurring very quickly after harvesting and freezing will be used only where needed.

However, there are some (non-monetised) benefits. It will allow industry to use frozen fruit in times of shortage and hence smooth the price of fruit juice made from soft fruits throughout the year. At the height of harvest, fruit that can't be processed can be frozen to be processed at the end of the season when the processing factory can catch up. This is particularly important for soft fruits such as raspberries and strawberries.

It will also assist in the processing of new and upcoming exotic fruits going for juice production such as noni fruit where the processing facilities don't exist in the country where the fruit is grown. Freezing of such fruit allows the fruit to be preserved and then

transported to processing factories for juicing. This also means that there will be benefits for the UK producers where these fruits are sourced from the UK.

Consumers

This will allow consumers to enjoy a wider range of products throughout the year and allow juices from more novel fruits to be produced more easily.

1.2. (a)- (d) Prohibition of sugar addition to fruit juices, prevention of ‘no added sugar’ claims and voluntary labelling initiative.

- (a) Sugar will no longer be permitted to be added to fruit juice
- (b) ‘No added sugar’ claims will no longer be valid for use on fruit juices
- (c) Optional use of clarifying text to educate consumers for a time limited period that in future fruit juice will no longer contain added sugar

This proposal is in line with UK policy on reducing fat, sugar and salt intakes. However, it is not generally common practice for UK industry to add sugar to fruit juice and indications from the industry are that only a few grapefruit products might be affected. At present sugar is permitted to be added to juices and nectars but for juice its addition needs to be highlighted both in the product name and by indication of the amount added. Thus to a certain extent there is already a disincentive for industry to add sugar to juices. The prohibition of sugar addition to juices however has a consequence for industry in that they will no longer be able to make “no added sugar” claims on any juices. This is because it would contravene food labelling rules by suggesting that the juice possesses special characteristics (i.e. no added sugar) when in fact no juices will contain added sugars. Industry has expressed a concern that consumers may be confused by the changes and wonder about the sudden disappearance of these claims overnight. As a result the directive provides for manufacturers to factually alert consumers by including a specific statement regarding the change to the sugar provisions to the effect that “From 28 April 2015 no fruit juices contain added sugars”. Its use is entirely voluntary but if used it must appear in the same field of vision as the name of the product and can only be used until 28 October 2016. It is also possible that some retailers may look to educate consumers that in future fruit juice will no longer contain added sugar. However, it is unlikely that this is something that manufacturers will do as it incurs a cost.

UK industry has been supportive of prohibiting adding sugar to juice but would have preferred to be able to continue to make use of “no added sugar” claim on the label. However it accepts this is not possible within the context of food labelling rules but there may be some costs associated with this measure.

Costs of the measure

Industry

1.2 (a) Prohibiting the addition of sugar to fruit juice

There will be one off reformulation or relabelling costs for fruit juice manufacturers who currently add sugar to fruit juices, as the addition of sugar to fruit juice will now be prohibited. From current knowledge of the sector and using information provided by the BSDA in relation to their members we understand there are around 30 grapefruit products and 3 may currently use sugar. These 3 will need to be reformulated or relabelled. To be on the safe side and to account for non trade association affiliated industry we estimate that up to a maximum of 10 stock keeping units (SKU) may be affected by this change. Average relabelling costs have been calculated as part of the Defra- commissioned study into assessing the costs of labelling changes on the UK. The results from this work indicate that the average cost for re-labelling per SKU is approximately £1800. The approximate relabelling costs for 10 SKUs would therefore be $10 \times £1800 = £18,000$. The actual cost may in fact be less than £18,000 as some manufacturers might choose to reformulate rather than re-label. We assume that they would only do this if the net cost of reformulation is less than that of re-labelling. Therefore, £18,000 can be seen as an upper bound on the possible cost.

We do not have data that is specific to Wales, but we can calculate an indicative estimate by using the proportion of soft drinks producers in Wales (7% of the total cost of £18k is £1,200 (EAC of £146).

1.2(b) Removing the need to use a 'no added sugar' claim for fruit juices

The use of "no added sugar" claims on fruit juices is generally not a widespread practice but some main stream not from concentrate manufacturers do currently use them, particularly on juices marketed towards children. We are aware of one major manufacturer, who would be affected by the requirement to re label as a result of removing the no added sugar claim. Information from industry suggests that one-off costs associated with the removal of 'no added sugar' claim will be around £850,000. Industry will have until 28 April 2015 to fully comply with the rules. The industry had information on the impending implementation of the new regulation and the impending 18 months implementation period since the regulation was adopted in April 2012. The industry will need to comply with the new rules from 28 October 2013 and will have until 28 April 2015 to exhaust stocks manufactured and labelled before 28 October 2013.

We do not have data that is specific to Wales, but we can calculate an indicative estimate by using the proportion of soft drinks producers in Wales 7% of the total cost of £850k is £59.5k (EAC of £6,912).

1.2(c) Voluntary clarifying statement on added sugar in juices

The voluntary statement will alleviate some of the concerns expressed by industry relating to possible consumer confusion at the sudden loss of no added sugar descriptors and that as a result they may choose no added sugar fruit juice drinks as an alternative, a completely different category of drink which is outside the scope of the regulations. The voluntary statement will allow manufacturers to choose whether they feel they need to explain to consumers about new requirements. It is difficult to anticipate uptake but it seems more likely that because the required labelling changes for adding the clarifying statement will be voluntarily allowed for a limited time period. Industry (manufacturers and retailers) may feel it is not worth taking up. However they may choose to use it as part of any new marketing or educational campaigns they embark on.

Consumers

There is no perceived cost to the consumer as the labelling changes are likely to be absorbed by the manufacturer. Consumers will be able to have confidence that sugar is not added to any fruit juice and the only sugar present should be that naturally present in the fruit.

Benefits of the measures

There may be non-monetised benefits for industry and consumers.

Industry

The industry will benefit from a level playing field across the EU whereby no fruit juices will be able to contain added sugar. As most juices in the UK do not contain added sugar, this will have minimal affect on industry. Industry may choose to portray the changes as a positive message in their marketing of juices to consumers. The main benefits relate to the optional use of a voluntary clarifying statement regarding the lack of added sugar in juices and it is up to industry to decide whether they wish to take advantage of this.

Consumers

Only a small number of products currently use no-added sugar claims on juices so there will be minimal affects. The demise of “no added sugar” claims on juices may help alleviate any possible consumer confusion about the presence of added sugars in juice and will marginally reduce the sugar intake of consumers who would have consumed fruit juice with added sugar. However, it could also confuse consumers looking for such claims and drive them to buying fruit juice drinks which will still be using these claims. Any benefit will depend on whether industry chooses to use the statement on those

small numbers of products currently using the claim. Consumers can be assured though that no fruit juices contain added sugar.

1.3 (d) Prevention of “no added sugar” claims on nectars containing added sweeteners

Although the addition of sugar (and honey) to fruit juice is now prohibited, sugar, honey and sweeteners are still permitted to be added to fruit nectars. The new rules, however, additionally prevent the use of “no added sugar” claims on nectars containing sweeteners. This goes against the UKs interpretation on the use of “no added sugar” claims in products containing added sweeteners. While agreement was accepted to make a special case for nectars, a statement at Council was secured which provided assurance that this was an isolated decision pertaining to fruit nectars which should not set a precedent or prejudice any future discussions on the use of “no added sugar” claims in other products containing added sweeteners.

Costs of the measure

Industry

The nectar category in the UK is quoted as 189 million litres according the recent BSDA 2012 Soft Drinks Report². However we understand that this is more likely to represent the fruit juice drink sector in the UK and not the traditional Nectar definition in the directive. Nectars are composed of a minimum juice content mixed with water and/or sugars honey or sweeteners and are traditionally not very common in the UK. Similar types of products in the UK market would be sold as ‘fruit juice drinks’ and are composed of varying proportions of fruit juice , water and other ingredients such as additives taking them outside the scope of the fruit juice directive. As nectars meeting the directive definition are not commonly produced in the UK this change is more likely to affect mainstream Europe, where nectars are much more common.

Consumers

There will be minimal effect of the measure on consumers as the UK nectar market is small.

Benefits of the measure

Industry

Since products sold as nectars are traditionally not a significant part of the UK market, there is likely to be negligible impact.

Consumers

There will be virtually no benefits of the measure to the consumers as the UK nectar market is small. Consumers may notice a change in any imported products labelled as nectar where those with added sweeteners will not be allowed to use the term 'no added sugar'.

1.2(e) Reversion to the Codex Brix values for blackcurrant, guava, mango and passion fruit juices from concentrate.

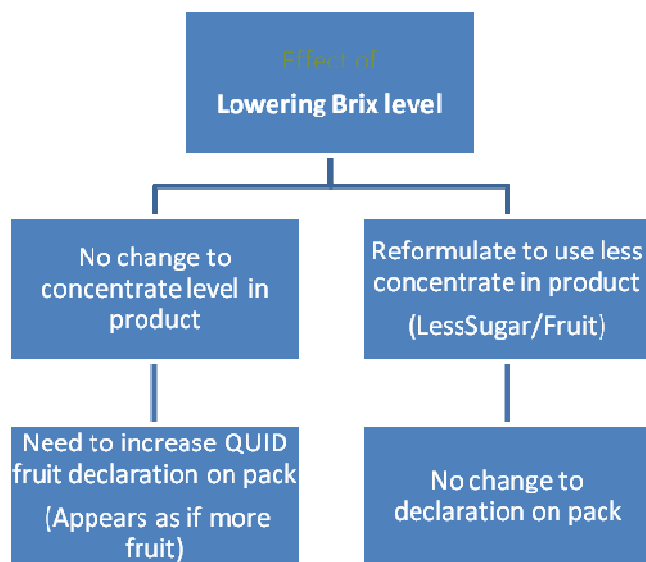
The most recent amendment to the Fruit Juice Directive in 2009 introduced minimum Brix levels for a range of fruit juices from concentrate. For four of the fruits, blackcurrant, guava, mango and passion fruit, the minimum Brix levels set by the EU were higher than those in the Codex standard as the figures reflected European industry practices. Setting higher Brix levels was in response to European manufacturers working to higher levels which are representative of EU manufacturing practices. This was a protective measure for EU suppliers to keep out lower Brix juices (and lower quality) but the European Parliament was particularly concerned by these differences and felt there were possible trade advantages for non-EU products working to the lower minimum Brix levels in the Codex standard. As a result, the Directive has been amended so that the Brix levels for blackcurrant, guava, mango and passion fruit are aligned with the Codex Standard.

Industry may choose to reformulate slightly. Working with the lower Brix level will allow them to add slightly less fruit concentrate but still meet the existing nutritional and Quantitative Ingredient Declaration (QUID) declarations on pack. Alternatively, they can adjust their labels to increase the QUID percentage of fruit as they will base their calculations on the lower minimum Brix. Figure 2 summarises the options available to the manufacturers in order to comply with the new regulations.

Initial responses from industry suggested that reformulation was more likely be their route of choice as this avoids any label amendment and the industry could take the opportunity for a small cost saving. However it is difficult to say for sure which route will be chosen and will depend on decisions within individual companies. Following consultation, industry suggested an equal split between reformulation and relabeling. As we only have information on estimates for relabeling costs for the purposes of this IA we have assumed that industry will relabel. This is conservative, in that if the industry finds it cheaper to reformulate than they will do so.

Brix levels equate to the soluble solids level (sugar) which directly relate to the Fruit QUID declaration on pack & also Nutritional Information.

Figure 2. Options for the manufacturers to comply with lower Brix



Costs of the measure

Industry

It is difficult to say for certain whether industry will reformulate or relabel as this is a commercial decision which is likely to be dependent of a number of factors .If industry choose to relabel they will need to change their labels to increase the Quantitative Ingredient Declaration (QUID) percentage of fruit if they base their calculation on the new lower minimum. This will incur labelling costs but as these fruits do not constitute a significant amount of the market, or are used in combination with other fruits, in practice only a small amount of products would need to be changed. The European Association and UK trade Associations currently work to the higher Brix levels for these fruits but have plans to review their code of practice in the light of the changes to European and domestic regulations. With industry having until 28 April 2015 to fully comply with the rules and the small number of affected parties, the likely costs are deemed to be very small. As part of the consultation process industry were asked to provide an estimate of the number of products affected and any costs associated with a re-labelling route. In their response the BSDA indicated that responses from their members suggested that there is likely to be a fairly equal split between relabelling and reformulation. They pointed out that both of these routes involve some cost, although with reformulation some savings are made in the quantity of juice used but the reformulation requires a costly approval process initially(see para 93). As new products are developed the Codex Brix values will be used from the outset. The label change would typically only affect the ingredient list but would be dependent on the fruits used

in the product. It is estimated that this could affect around 30SKUs in the whole market and assuming all the manufacturers choose to re-label rather than reformulate the total cost to the industry would be £54, 000.

Consumers

There will be no additional costs to consumers and they should not be noticeably affected by this measure. Although industry may slightly reduce the fruit ingredient, it is unlikely that consumers will notice any taste or quality differences. Alternatively, industry may choose not to change their product formulation and this will result in a higher fruit QUID declaration.

Benefits of the measure

Industry

Industry would have preferred to keep the minima for the four fruits at existing levels as this represents their current practices. However, the changes mean that by working to a lower minimum Brix level for these fruits industry could reformulate products slightly and reduce the amount of concentrate ingredient to enable the juice level to tie in with the existing level they declare on pack. A reduction on the amount of fruit ingredient may mean industry could enjoy some small costs savings for those fruits. However, this is likely to be fairly small and might be offset by initial approval costs relating to nutrition declarations. Overall we do not have sufficient information to monetise the overall savings of reformulation, but have instead assumed all industry will re-label.

1.3 Labelling

1.3 (a) Requirement for the product name to reflect the fruits represented in the ingredients list.

The new rules tighten existing requirements regarding the naming of mixed juices. The product name must now correspond with their order in the ingredients list. So if a product is composed of grape (90%), apple (7%) and mango (3%) then the product name must be Grape, Apple and Mango Juice rather than any other combination. The previous requirement was rather more loosely worded and required supplementation of the product name with the juices used.

Costs of the measure

Industry

This requirement is likely to affect mainstream Europe more than the UK. In the UK it has been mostly industry practice to apply this labelling principle so it should not cause significant change to the industry. There may be some smaller niche products which may need to amend their labels. Alternative naming options such as indicating the number of fruits or using terms such as mixed fruit juice or several fruit juice still remain.

Consumers

There will be no costs of the measure on consumers.

Benefits of the measure

Industry

Industry will benefit from a level playing field and universal application of the naming of these mixed juices across Europe and in the UK. Any products currently trying to gain a marketing advantage by highlighting small amounts of desirable, exotic or high value fruit first in the name will no longer be able to do this.

Consumers

Informed choices benefit- Consumers will benefit from clearer labelling information to help them make more informed choices. They will be able to identify more clearly from the product name the nature of the product and the most dominant juice (in volume terms). Consumer's will benefit as products composing of high value fruits or used in small amounts cannot be highlighted at the expense of the lower value of those juices making up the greatest proportion of the products in order to make the product more appealing to purchase. However possible consumer confusion is an issue as some juices used in small amounts have very strong flavours likely to impart the characterising flavour to the product. If this juice is listed later in the product name consumers may not realise the true flavour.

1.3 (b) Inclusion of tomatoes in the list of fruits used in fruit juice production

Tomato has been added to the list of fruits covered by the directive meaning that tomato juices will be subject to the same specific rules as other fruit juices. This was requested by the industry and a measure they support.

Costs of the measure

Industry

Tomato juice accounts for around 9.7 million litres of the UK juice market. The inclusion of tomato juice within the Directive will generally be cost neutral for juice suppliers as industry already adheres to an industry code of practice which is very similar to the requirements of the directive. Most tomato juice products are already labelled in accordance with the directive for consistency on the shelf with other juice products in any given branded range. Industry estimates that around 90% of products are already compliant. The remaining 10% may need to alter their labels or reformulate which accounts for around 3 products costing 3 x £1800 = £5,400 (or £630 EAC)

We do not have data that is specific to Wales, but we can calculate an indicative estimate by using the proportion of soft drinks producers in Wales. 7% of the total cost of £5.4k is £378 (EAC of £44).

Products labelled as containing tomato juice as an ingredient or packed using tomato juice may need to check that the juice complies and there may be a small number of products that will need to be reformulated or relabelled. This cost has not been taken into account but it is more likely to affect the EU suppliers of tomato based products.

Consumers

Benefits of the measure

Industry

The rules provide manufacturers with a level playing field for tomato juice across the EU. However, in practical terms industry has already developed a Code of Practice for tomato juice which is broadly in line with the new rules. Practically the new rules should therefore not prove to be any more onerous including tomato juice as a fruit provides industry with a more secure legal footing for trading in this juice and ensures it is made to a standard minimum quality.

Consumers

Benefits for consumers focus mostly on securing the authenticity of tomato juice as it will now be covered by a legal minimum standard. This will assure consumers that they are getting a consistent product which meets minimum composition and labelling requirements.

There will be some small consumer benefits from consistency through the creation of a legal minimum standard. However in practice since, industry already adhere to a code of practice which is similar to the requirements of the Directive consumers are unlikely to notice any differences.

1.3 (c) To amend the definition of fruit juice to clarify that the use of fruit purees is acceptable in juice production.

This is a small but significant change and clarifies that mixed juices prepared using fruits which are only available as purees can be called juices. Some fruits such as mango and banana exist only in puree form but are often used in blended juices. The distinction between some juices and purees is unclear in the existing directive and this change clarifies the situation providing certainty regarding their usage in juice production. For example, this will allow a product to be called "Orange and mango juice" rather than orange juice and mango puree.

Costs of the measure

Industry

There will be no significant costs to industry. Purees such as banana or mango are already used in the production of many fruit juice blends such as orange and mango, or tropical blends and the change will allow composite products of juice and puree to be described simply as a juice. Industry has welcomed this move which provides them with further clarity on the labelling of such juices. Smoothies have traditionally been considered to be outside the scope of the directive however the implications for smoothies comprising of only juices and purees is still being considered.

Consumers

There will be no costs to consumers of this measure.

Benefits of the measure

Industry

This measure clears up any ambiguity for industry about whether juices containing fruit puree can be called a juice. The additional legal clarity will be helpful to industry who has previously questioned the naming of such products. This means that any products composed of both juice and puree can take advantage of this clarification and call mixed juice and puree products by the term juice. This will be a voluntary marketing decision for industry carried out in the course of any redesign or other labelling changes.

Consumers

The benefits for consumers relate to improved label clarity. Using the 'juice' descriptor to describe a product consisting of juice and puree makes labelling simpler for the consumer. It is unlikely that consumers knowingly differentiate between fruits which are produced as a juice or puree and therefore unlikely they make any decisions based on the use of a puree as opposed to a juice such products. Purchasing decisions are more likely to be based on flavour and taste so we don't believe this change is likely to affect their purchasing decisions.

1.4 Other measures

The new Directive introduces other small changes. However these primarily relate to improving clarity and reducing ambiguity and are likely to be cost neutral.

- Water used for restoration needs to meet Council Directive 98/83/EC the Drinking Water Directive
- Definition of flavours for purposes of fruit juice

- Addition of certain particular designations for fruit juices in certain countries

1.5 Enforcement regime – Use of Improvement Notices

A move to a new more proportionate approach to enforcement is being proposed in line with other recently altered food legislation. This involves moving away from existing frontline criminal sanctions to the use of improvement notices. Escalation to a criminal offence would happen only if there is failure to comply with an improvement notice, with an offender being liable, on summary conviction, to a fine not exceeding level 5 on the standard scale of fines. Businesses will have the opportunity to appeal against an improvement notice to the Magistrates Court.

Benefits

Industry

A more proportionate enforcement procedure for businesses – There is a benefit to industry in terms of moving from the current criminal sanctions regime the use of improvement notices. It is anticipated that the gains will originate from reduced costs and the time saved to businesses in resolving the issues more quickly. This will materialise in the fact that it is envisaged that most cases will be resolved through compliance with the improvement notice and only those not complied with will need to be escalated to a Magistrates Court. However, this benefit is likely to be fairly minimal given the number of cases associated with fruit juice non-compliance is anticipated to be very small. This is currently a non-monetised benefit.

Government

Simpler enforcement procedures for enforcement officers– There is also a benefit to Government in terms of moving from the current frontline criminal sanctions regime to the new improvement notice regime. It is anticipated that the gains will originate from reduced court costs as the number of hearings will be reduced as issues will be resolved through issuing Improvement Notices, and the time saved to enforcement officers in resolving the issues more quickly instead of preparing for a court case. However, this benefit is likely to be fairly minimal given the number of cases associated with fruit juice non-compliance is anticipated to be small. This is currently a non-monetised benefit.

Information provided in the food standards enforcement actions report for 2011/12 shows that there were 66 food standards prosecutions in the UK; 48 of those in England and even fewer food labelling offences. For fruit juice specifically, the likelihood is that prosecutions are extremely low or possibly none at all. Nevertheless, we would expect the number of cases referred to criminal courts to be reduced.

1.6 Consolidation and Copy Out

The changes in 2012/12/EU are being implemented through the creation of a new consolidated set of Regulations. The two existing Regulations will be revoked and combined with the new revisions to provide a complete set of rules making it easier for business working to one set of rules. Guidance will also be updated and improved. We have ensured that when implementing the amendments, copy out has been used as the norm. Existing rules have been reviewed and small amounts of gold plating and under implementation identified which will be removed.

Costs

There will be no costs to industry, consumers or enforcement authorities of consolidating the regulations.

Benefits

Consolidation of the regulations into a new single SI will see the number of regulations on fruit juice decrease to one. It will make it easier and more straightforward for industry and enforcement authorities to have all fruit juice rules together in one place. There may be some reduction in the time taken to access information from the regulations given that there will be no need to cross refer and all the rules will be in one place. We have not monetised this benefit because it is likely to be very small and affects only a relatively small number of companies. The use of copy out will ensure that the government is not going over and above the new Directive and therefore not adding any further burdens on business. Table 3 highlights where we have identified such occasions. These are few and their nature means it is not practical to monetise costs which are in any case likely to be very small. The new regulations will come into force on the 27 October 2013- the latest date for MSs to meet its EU obligations to implement the directive into national law. This is in line with the government policy of not implementing EU obligations early. We see these as non-monetised benefits but we expect that the savings overall to be small in size.

Overall Costs and Benefits

The summary of Option 2 is presented in Table 2 below and is as follows:

- There is a one-off familiarisation cost for the industry which amounts to £783 (PV) and EAC £91.
- It is estimated that around 10 grapefruit juice manufacturers will face the relabelling costs of about £1,260 (PV) due to prohibition of added sugar to fruit juices in the new regulation (EAC £146).
- Manufacturers with product lines with misleading descriptor 'no added sugar' will have to relabel in order to remove the descriptor which will incur a lump-sum cost of about £59,500 (PV) to the industry (EAC £6,912).

- Manufacturers of water-extracted juices will also face a relabelling cost of about £756 in order to label their product as 'water-extracted juice' (EAC 88).
- Manufacturers of tomatoes will face a relabelling cost of about £378 (EAC £44) in order that their product is included in the list of fruits used in fruit juice production.
- The key monetised benefit will be to the manufacturers producing juice in the ambient private category. Using the assumption that 80% of the manufacturers will make a saving by not restoring aromas, the industry for this category may see benefits between £96,880 (PV) and £387,520 (PV), with a best (central) estimate of £242,200 (PV).

All other costs and benefits are non-monetised.

Table 2: Summary of all costs and benefits under option 2

	year 0	1	2	3	4	5	6	7	8	9	Total	EAC/p.a.	PV
COSTS													
Industry familiarisation	783	0	0	0	0	0	0	0	0	0	783	91	783
Public familiarisation	1,064	0	0	0	0	0	0	0	0	0	1,064	124	1,064
Addition of sugar	1,260	0	0	0	0	0	0	0	0	0	1,260	146	1,260
Water extracted	756	0	0	0	0	0	0	0	0	0	756	88	756
'no added sugar'	59,500	0	0	0	0	0	0	0	0	0	59,500	6,912	59,500
BRIX	3,780	0	0	0	0	0	0	0	0	0	3,780	439	3,780
tomato relabel	378	0	0	0	0	0	0	0	0	0	378	44	378
Total costs	67,521	0	0	0	0	0	0	0	0	0	67,521	7,844	67,521
BENEFITS													
Aromas (low estimate)	96,880	96,880	96,880	96,880	96,880	96,880	96,880	96,880	96,880	96,880	968,800	96,880	833,913
Aromas (central est)	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	2,422,000	440,364	2,084,782
Aromas (high estimate)	387,520	387,520	387,520	387,520	387,520	387,520	387,520	387,520	387,520	387,520	3,875,200	704,582	3,335,651
Total benefits (central)	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	2,422,000	440,364	2,084,782
NET OUTCOME													
Net benefit (low estimate)	29,359	96,880	96,880	96,880	96,880	96,880	96,880	96,880	96,880	96,880	901,279	89,036	766,392
Net benefit (central estimate)	174,679	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	2,354,479	432,519	2,017,261
Net benefit (high estimate)	319,999	387,520	387,520	387,520	387,520	387,520	387,520	387,520	387,520	387,520	3,807,679	696,738	3,268,130
Net Benefit (central)	174,679	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	242,200	2,354,479	432,519	2,017,261

*All costs are denoted in 2013 prices.

Risks and Assumptions

Risks:

Failure to transpose the directive into national law could result in infraction proceedings from the EU.

Assumptions:

In carrying out this analysis following assumptions have been made

1. The fines that could result from infraction may be around 9.6 million Euros however, an objective analysis requires that we discount this figure and do not count it as a saving if the UK transposes this directive into national law.
2. The fruit juices industry is a mature industry and grows steadily and the number of existing manufacturers who need to be familiar with the new regulations is inflated from 45 to 75 to take into account the soft drinks manufacturers who also produce some fruit juice drinks as part of their product range. Any prospective entrants will not be particularly affected by new regulations.
3. Any reformulation costs are likely to be met from within the manufacturers' product development requirements over the three years between 28 April 2012 (the adoption of the directive) and 28 April 2015 (the deadline of 18 months to exhaust the older stock after the regulations have been introduced as national law on 28th October 2013).
4. Currently all the manufacturers restore aromas.
5. On implementation of the new regulations, 80% of the manufacturers who produce fruit juice in the category Ambient Private will choose not to restore aromas.
6. The inclusion of tomatoes in the list of fruits used in fruit juice production will require 3 products to be relabelled.

Administrative Burden Costs

The administrative costs for the transition period due to familiarisation costs and one-off relabelling/reformulation costs to the industry together amount to £62,677(PV) and EAC £7,282. The transition costs may not be equally distributed between businesses as most of the firms already work to these regulations as an industry standard. There will also be ongoing non-monetised savings from removal of gold plating where it exists as well as consolidation of the fruit juice regulations. The small businesses will also have to face these transition costs as there can be no discrimination in the implementation of national law and if this law is not adopted the infraction process will hurt the entire industry small businesses and big businesses alike. The net administrative burden is likely to be small due to clearer and consolidated regulations which will bring into force the regulations which represent industry practices.

Consultation

A 6-week consultation from 25th July to 5th September 2013 was conducted seeking the views of stakeholders on the new SI and the costs and benefits estimated in the

Consultation Stage IA. There were no responses to the consultation in Wales. A total of 4 responses were received to the consultation in England, 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. Some reservations were expressed from 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. BRC questioned the move from criminal to civil sanctions as they felt the current enforcement system worked well

Enforcement

The Regulations will be enforced by Trading Standards officers in a change to the existing enforcement regime is proposed with a move from the existing criminal sanctions to a more proportionate and targeted regime using improvement notices. Escalation to a criminal offence would happen only if there is failure to comply with an improvement notice, with an offender being liable, on summary conviction, to a fine not exceeding level 5 on the standard scale of fines. Businesses will have the opportunity to appeal against an improvement notice to the Magistrates Court

Legal implementation and Copy-out:

Intervention is required to implement the amendments in Council Directive 2012/12/EU. The UK has 18 months to implement the requirements following its entry into force on 27 April 2012. In line with Government policy to implement EU obligations at the latest possible date the new rules will be brought in on the 18th November 2013 the latest possible date allowed by the directive.

The changes are being implemented through the creation of a new consolidated set of Fruit Juices and Fruit Nectars (Wales) 2013 Regulations with revocation of the two existing sets of regulations. The new Regulations will come into force on the 28 October 2013 which is the latest date by which Members States need to implement the directive into national law.

Regulations are being introduced separately in each of the constituent nations of the UK. We have ensured that when implementing the amendments in the revised directive, copy out has been used as the norm.

Table 3: Comparison of existing national Regulation with EU Rules: Gold plating and under implementation

Where (2003 Regulations)	Gold Plating / Under Implementation	Issue	Solution
Regulation 3 Application of	Under implementation	Text in Regulations 3 is less strict than the directive which applies it to a designated product' <i>intended for</i>	Text in italics deleted from new

Designated product		<i>human consumption and 'ready for delivery to the ultimate consumer or to a catering establishment'</i>	Regulations
Regulation 4 Sale of food 'with a label' vs. used in trade	Under implementation	Regulation 4 relates to sale of food 'with a label' whereas Article 2(1) of Directive 2001/112/EC is more general and relates to the use of the product name 'in trade' to designate products.	Amended to use directive wording "used in trade"
Regulation 4 Application to derivatives	Gold Plating	Article 2(1) of Directive 2001/112/EC provides that the product names listed in Annex I shall only apply to the products referred to in Annex I and must be used in trade to designate them. Our Regulation 4 goes further and not only covers the 'reserved description' but also ' <i>any derivative thereof</i> ' and ' <i>any word or description substantially similar thereto</i> '.	Remove reference to any derivative thereof and 'any word or description substantially similar thereto'
Regulation 4(b) relates to the use of a reserved description when being used as an ingredient	Duplication	Ingredients provisions already covered by FIR	Tentatively delete and include in guidance
Regulation 5(a) does not allow for use of the alternative names mentioned in Article 3.1(b) of the Directive	Under implementation	Omitted because none of the names covered in Annex III relate to English terminology or apply to UK products, also now amended with further additions in new revision	Include reference to alternative names mentioned in Article 3.1(b) and Annex III to allow their use
Regulation 5(c) relates to the addition of pulp and cells.	Gold plating	Regulation 5(c) requires that any pulp and/or cells added to a fruit juice, a <u>concentrated fruit juice or a fruit juice from concentrate</u> must be indicated on label. Directive appears to only explicitly requires this in the case of fruit juice so application to the others would appear to be an over implementation. Believe it was the intention added pulp and cells should also be labelled when added and this is an oversight in directive.	Under consideration as to whether to retain existing text of Regulations. Industry tells us that if they add pulp and cells this will always be labelled. They are supplied separately from the juice by processors therefore to add them is an additional cost which they would want to make a

			selling point of.
Regulation 6 Applies requirements of regulations 35, 36(1) and (5) and 38 of the FLR to the mandatory indications required by regulation 5 of the 2003 Regulations.	Gold Plating	No justification for this and as the provisions in Regulation 6 of the 2003 Regulations will largely be covered by the provisions in Articles 12 and 13 of FIR.	Delete
Schedule 5, note 1 No such provision in 2001/112/EC.	Gold Plating	This is additional explanatory text to assist readers that for a mixture of two fruits consisting of 50% of each fruit then you reduce the minimum juice requirements by 50% for each of the two fruits.	Remove and include in guidance notes. Industry has said it is helpful.

Summary of the preferred option

Option 2 is the preferred Option. We have until October 2013 to implement the new provisions in EU Council Directive 2012/12/EU amending Council Directive 2001/112/EC relating to fruit juices and certain similar products intended for human consumption. Government intervention is necessary to transpose this directive into national law by way of an SI. Failure to implement the Directive would result in a failure to comply with our EU legal obligations and leave the UK open to infraction proceedings by the European Commission and a hefty fine. Option 2 provides consumers with improved measures to ensure the minimum quality for juices while allowing for diversification and new product development.

The changes to be introduced represent a positive step forward for the fruit juice industry with the overall benefits outweighing the relatively small costs associated. Any potential costs to manufacturers will be mitigated by a further 18 months transition period to all the exhaustion of existing stocks. This should allow industry sufficient time to alleviate the cost of label changes by aligning required label changes with voluntary, market-driven label changes. The UK fruit juice industry have indicated their support for the majority of changes and the BSDA have indicated that they believe there will be relatively small impacts from most changes and that the legislation is generally cost neutral.

The improved legal clarity in the preferred option will be very helpful to industry and help alleviate or avoid potential trade disputes, particularly in the area of restoring aromas to juices. Importantly the changes will help to maintain a level playing field within the global fruit juice industry by aligning with EU legislation and the international Codex standard on fruit juice and nectars so that manufacturers do not become disadvantaged.

Specific Impact Tests

Statutory Equality Duties Impact Test

Race equality issues

No impacts on specific ethnic groups have been identified from the policy options.

Gender equality issues

No gender specific issues related to the policy options have been identified.

Disability equality issues

No disability specific issues related to the policy options have been identified.

Competition Assessment Impact Test

The proposed legislation applies to all relevant UK food and drink manufacturers equally, allowing them to trade across EU Member States, if appropriate. It should not limit the number or range of suppliers either directly or indirectly or reduce the ability of, or incentives to, suppliers to compete. Therefore, it is not expected to significantly impact on competition.

Small Firms Impact Test

It is acknowledged that the market for fruit juices includes small and micro businesses. However, as industry is in favour of these Regulations and has been informally consulted during the policy development stage, we do not envisage these Regulations imposing a significant or disproportionate burden on small businesses.

Sustainable Development Impact Test

We do not envisage that either option outlined in this IA will have a significant impact on sustainable development. There are no significant environmental impacts or social benefits associated with this policy and we do not anticipate that our actions will have any impact on future generations.

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Document is Restricted