

2003 No. 1563

FOOD, ENGLAND

The Specified Sugar Products (England) Regulations 2003

<i>Made - - - - -</i>	<i>12th June 2003</i>
<i>Laid before Parliament</i>	<i>20th June 2003</i>
<i>Coming into force - -</i>	<i>12th July 2003</i>

The Secretary of State, in exercise of the powers conferred by sections 16(1)(e), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990(a) and now vested in him(b) and of all other powers enabling him in that behalf, having had regard in accordance with section 48(4A) of that Act to relevant advice given by the Food Standards Agency and after consultation both as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(c) and in accordance with section 48(4) and (4B) of the said Act, hereby makes the following Regulations:

Title, commencement and extent

1. These Regulations may be cited as the Specified Sugar Products (England) Regulations 2003, shall come into force on 12th July 2003 and shall apply to England only.

Interpretation

2. In these Regulations—

“the Act” means the Food Safety Act 1990;

“candy sugar” means crystalline sugar with crystals having any dimension greater than one centimetre;

“catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer and is ready for consumption without further preparation;

(a) 1990 c. 16.

(b) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraphs 7 and 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) and paragraphs 12 and 21 of that Schedule amend sections 17(1) and 48 of the 1990 Act. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act and those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (c. 46) as read with section 40(2) of the 1999 Act. Regulation 13(4) of S.I. 2000/656 expressly authorises the Secretary of State to amend or revoke existing Regulations made or having effect as if made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the Food Safety Act 1990.

(c) OJ No. L31, 1.2.2002, p. 1.

“EEA Agreement” means the Agreement on the European Economic Area(a) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(b) signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“food authority” does not include—

- (a) the council of a district in a non-metropolitan county except where the county functions have been transferred to that council pursuant to a structural change, or
- (b) the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple);

“icing sugar” means fine particles of white sugar or extra-white sugar or mixtures thereof;

“the 1996 Regulations” means the Food Labelling Regulations 1996(c);

“preparation” includes manufacture and any form of processing or treatment and “prepared” shall be construed accordingly;

“reserved description”, as respects any specified sugar product, means any description specified in relation to that product in column 1 of Schedule 1 (as read with the notes relating to that Schedule) and the use of any such description in these Regulations shall be construed as meaning the product to which that description relates;

“sell” includes offer or expose for sale or have in possession for sale, and cognate expressions shall be construed accordingly;

“specified sugar product” means any food specified in column 2 of Schedule 1 (as read with the Notes relating to that Schedule) but does not include any such food in the form of icing sugar, candy sugar or sugar in loaf form;

“sugar in loaf form” means a piece of agglomerated crystalline sugar, usually conically shaped, weighing not less than 250 grammes; and

“ultimate consumer” means any person who buys otherwise than—

- (a) for the purpose of resale,
- (b) for the purposes of a catering establishment, or
- (c) for the purposes of a manufacturing business.

Scope of Regulations

3. These Regulations apply to specified sugar products, intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment.

Reserved descriptions

4. No person shall sell any food with a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or any derivative thereof or any word or description substantially similar thereto unless—

- (a) such food is the specified sugar product to which the reserved description relates;
- (b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food;
- (c) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not and does not contain a specified sugar product; or
- (d) such description, derivative or word is used in a customary name for another food product and is not liable to mislead the consumer.

Labelling and description of specified sugar products

5. Without prejudice to the generality of Part II of the 1996 Regulations, no person shall sell any specified sugar product unless it is marked or labelled with the following particulars—

- (a) the reserved description of the product; and

(a) OJ No. L1, 3.1.94, p. 1.

(b) OJ No. L1, 3.1.94, p. 571.

(c) S.I. 1996/1499.

- (b) in the case of sugar solution, invert sugar solution and invert sugar syrup, the dry matter and invert sugar content of the product.

Manner of marking or labelling

6. Regulations 35, 36(1) and (5) and 38 of the 1996 Regulations (which relate to the manner of marking or labelling of food) shall apply to the particulars with which a specified sugar product is required to be marked or labelled by regulation 5 of these Regulations as if they were particulars with which food is required to be marked or labelled by the 1996 Regulations.

Penalties and enforcement

7.—(1) Any person who contravenes or fails to comply with regulation 4 or 5 of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (2) Each food authority shall enforce and execute these Regulations in its area.

Defence in relation to exports

8. In any proceedings for an offence under these Regulations it shall be a defence for the person accused to prove—

- (a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that the food complies with that legislation; and
- (b) in the case of export to an EEA State, that the legislation complies with the provisions of Council Directive 2001/111/EC(a) relating to certain sugars intended for human consumption.

Application of various provisions of the Food Safety Act 1990

9. The following provisions of the Act shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations—

- (a) section 2 (extended meaning of sale etc.);
- (b) section 3 (presumptions that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of sections 8, 14 or 15 of the Act;
- (e) section 22 (defence of publication in the course of business);
- (f) section 30(8) (which relates to documentary evidence);
- (g) section 33(1) (obstruction etc. of officers);
- (h) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection (1)(b) above” shall be deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (g) above;
- (i) section 35(1) (punishment of offences) insofar as it relates to offences under section 33(1) as applied by sub-paragraph (g) above;
- (j) section 35(2) and (3) insofar as it relates to offences under section 33(2) as applied by sub-paragraph (h) above;
- (k) section 36 (offences by bodies corporate); and
- (l) section 44 (protection of officers acting in good faith).

Revocations and consequential amendments

10.—(1) The following Regulations are hereby revoked (insofar as they apply to England):

- (a) the Specified Sugar Products Regulations 1976(b);
- (b) the Specified Sugar Products (Amendment) Regulations 1982(c).

(a) OJ No. L10, 12.1.2002, p. 53. As to the incorporation of Council Directive 2001/111/EC into the Agreement on the European Economic Area see OJ No. L298, 31.10.02, p. 10.

(b) S.I. 1976/509.

(c) S.I. 1982/255.

- (2) In the 1996 Regulations (insofar as they apply to England)—
- (a) in regulation 4(2) (scope of Part II) sub-paragraph (a) shall be omitted;
 - (b) in regulation 49 (revocations and amendments), paragraph (2) shall be omitted;
 - (c) in Schedule 3 (generic names in list of ingredients) in the entry relating to glucose syrup there shall be inserted in column 3 (conditions of use of generic name) the following words—

“The generic name may not be used where the glucose syrup contains fructose in a proportion of greater than 5% on a dry matter basis”.
- (3) The following entries relating to the Specified Sugar Products Regulations 1976 shall, insofar as the following Regulations apply to England, be omitted—
- (a) in the Food (Revision of Penalties) Regulations 1982(a), in Schedule 1;
 - (b) in the Food (Revision of Penalties) Regulations 1985(b), in the Schedule, Part I;
 - (c) in the Food Safety Act 1990 (Consequential Modifications) (England and Wales) Order 1990(c), in Schedule 1, Part I, Schedule 2, Schedule 3, Part I and Schedules 6 and 12;
 - (d) in the Food Safety (Exports) Regulations 1991(d), in Schedule 1, Part I;
 - (e) in the Food (Forces Exemptions) (Revocations) Regulations 1992(e), in the Schedule, Part I;
 - (f) in the Miscellaneous Food Additives Regulations 1995(f), in Schedule 9;
 - (g) in the Miscellaneous Food Additives (Amendment) Regulations 1999(g), in regulation 14(1);
 - (h) in the Miscellaneous Food Additives (Amendment) (England) (No. 2) Regulations 2001(h), in regulation 9(2).
- (4) In the Colours in Food Regulations 1995(i), insofar as they apply to England, in regulation 12 paragraph (2) shall be omitted;
- (5) In the Miscellaneous Food Additives Regulations 1995, insofar as they apply to England—
- (a) in regulation 10, paragraph (4) shall be omitted;
 - (b) in Schedule 2, in column 1, for the reference to “Directive 73/437/EEC” there is substituted a reference to “Directive 2001/111/EC”.
- (6) In the Coffee Extracts and Chicory Extracts (England) Regulations 2000(j), insofar as they apply to England, in regulation 5(1)(c), for the reference to the Specified Sugar Products Regulations 1976 there is substituted a reference to the Specified Sugar Products (England) Regulations 2003.

Transitional provision

11. In any proceedings for an offence under these Regulations it shall be a defence for the person accused to prove that—

- (a) the food concerned was marked or labelled before 12th July 2004, and
- (b) the matters constituting the alleged offence would not have constituted an offence under the Specified Sugar Products Regulations 1976 as those Regulations stood immediately before the coming into force of these Regulations.

Signed by authority of the Secretary of State for Health

Hazel Blears
Parliamentary Under-Secretary of State,
Department of Health

12th June 2003

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- (a) S.I. 1982/1727.
 - (b) S.I. 1985/67.
 - (c) S.I. 1990/2486.
 - (d) S.I. 1991/1476.
 - (e) S.I. 1992/2596.
 - (f) S.I. 1995/3187.
 - (g) S.I. 1999/1136.
 - (h) S.I. 2001/3775.
 - (i) S.I. 1995/3124.
 - (j) S.I. 2000/3323.

SPECIFIED SUGAR PRODUCTS AND THEIR RESERVED DESCRIPTIONS

<i>Column 1 Reserved Descriptions</i>	<i>Column 2 Specified Sugar Products</i>
1. Semi-white sugar	Purified and crystallised sucrose of sound and fair marketable quality with the following characteristics: (a) polarisation not less than 99.5°Z (b) invert sugar content not more than 0.1% by weight (c) loss on drying not more than 0.1% by weight
2. Sugar or white sugar	Purified and crystallised sucrose of sound and fair marketable quality with the following characteristics: (a) polarisation not less than 99.7°Z (b) invert sugar content not more than 0.04% by weight (c) loss on drying not more than 0.06% by weight (d) type of colour not more than nine points determined in accordance with paragraph (2) of Schedule 2
3. Extra-white sugar	The product having the characteristics referred to in paragraph 2(a), (b) and (c) of this Schedule and in respect of which the total number of points determined according to the provisions of paragraphs 2 to 4 of Schedule 2 does not exceed eight, and not more than: — four for the colour type, — six for the ash content, — three for the colour in solution
4. Sugar solution	The aqueous solution of sucrose with the following characteristics: (a) dry matter not less than 62% by weight (b) invert sugar content (ratio of fructose to dextrose = 1.0 ± 0.2) not more than 3% by weight of dry matter (c) conductivity ash not more than 0.1% by weight of dry matter, determined in accordance with paragraph 3 of Schedule 2 (d) colour in solution not more than 45 ICUMSA units
5. Invert sugar solution	The aqueous solution of sucrose partially inverted by hydrolysis, in which the proportion of invert sugar does not predominate, with the following characteristics: (a) dry matter not less than 62% by weight (b) invert sugar content (ratio of fructose to dextrose = 1.0 ± 0.1) more than 3% but not more than 50% by weight of dry matter (c) conductivity ash not more than 0.4% by weight of dry matter, determined in accordance with paragraph 4 of Schedule 2
6. Invert sugar syrup	The aqueous solution, whether or not crystallised, of sucrose that has been partly inverted via hydrolysis, in which the invert sugar content (fructose/dextrose quotient = 1.0 ± 0.1), must exceed 50% by weight of dry matter, but which must otherwise meet the requirements laid down in paragraph 5(a) and (c) of this Schedule.
7. Glucose syrup	The purified and concentrated aqueous solution of nutritive saccharides obtained from starch and/or inulin, with the following characteristics: (a) dry matter not less than 70% by weight (b) dextrose equivalent not less than 20% by weight of dry matter and expressed as D-glucose (c) sulphated ash not more than 1% by weight of dry matter
8. Dried glucose syrup	Partially dried glucose syrup with at least 93% by weight of dry matter, but which must otherwise meet the requirements laid down in paragraph 7(b) and (c) of this Schedule.
9. Dextrose or dextrose monohydrate	Purified and crystallised D-glucose containing one molecule of water of crystallisation, with the following characteristics: (a) dextrose (D-glucose) not less than 99.5% by weight of dry matter (b) dry matter not less than 90% by weight (c) sulphated ash not more than 0.25% by weight of dry matter
10. Dextrose or dextrose anhydrous	Purified and crystallised D-glucose not containing water of crystallisation, with at least 98% by weight of dry matter, but which must otherwise meet the requirements laid down in paragraph 9(a) and (c) of this Schedule.

<i>Column 1</i> <i>Reserved Descriptions</i>	<i>Column 2</i> <i>Specified Sugar Products</i>
11. Fructose	Purified crystallised D-fructose with the following characteristics: fructose content 98% minimum glucose content 0.5% maximum loss on drying not more than 0.5% by weight conductivity ash not more than 0.1% by weight determined in accordance with paragraph (2) of Schedule 2

Notes:

1. The reserved description “sugar” or “white sugar” may be used as an alternative to the reserved description “extra-white sugar” in the case of the product described at paragraph 3 above.

2. In the case of invert sugar syrup incorporating crystals in the solution the qualifying term “crystallised” shall be added to the description of the product.

3. Where a specified sugar product described at paragraph 7 or 8 above contains fructose in a proportion of greater than 5% on a dry matter basis the reserved description shall be “glucose-fructose syrup” or “fructose-glucose syrup” and “dried glucose-fructose syrup” or “dried fructose-glucose syrup” as the case may be so as to reflect whether the glucose component or the fructose component is in greater proportion.

4. The products described at paragraphs 1 to 11 above may, in addition to the reserved description, also bear commonly used qualifying terms provided that the result is not liable to mislead the consumer.

5. The description “white” may be used in relation to any product described at paragraph 4 above where the colour in solution does not exceed 25 ICUMSA units determined in accordance with the method of the International Commission for Uniform Methods of Sugar Analysis (“ICUMSA”) as set out in paragraph 3 of Chapter A of the Annex to Regulation (EEC) No. 1265/69(a).

6. The description “white” may be used in relation to any of the products described at paragraphs 5 and 6 above where the conductivity ash content does not exceed 0.1% and the colour in solution does not exceed 25 ICUMSA units determined as set out in paragraph 1 of Chapter A of the Annex to Regulation (EEC) No. 1265/69.

7. Specified sugar products may contain any substance permitted pursuant to Council Directive 88/344/EEC on the approximation of the laws of Member States on extraction solvents used in the production of foodstuffs and food ingredients(b) or Council Directive 89/107/EEC on the approximation of the laws of Member States concerning food additives authorised for use in foodstuffs intended for human consumption(c).

(a) OJ No. L163, 1.7.1969, p. 1.

(b) OJ No. L157, 24.6.1988, p. 28.

(c) OJ No. L40, 11.2.1989, p. 27.

SCHEDULE 2

METHODS OF ANALYSIS

1. The method for determining the loss on drying of semi-white sugar, sugar or white sugar and extra-white sugar is Method 1.
2. The method of determining the colour type of sugar or white sugar and extra-white sugar is the method of the Brunswick Institute for Agricultural and Sugar Industry Technology set out in Chapter A paragraph 2 of the Annex to the Commission Regulations (EEC) No. 1265/69 of 1st July 1969(a). For the purpose of determining the number of points, one point corresponds to 0.5 units.
3. The method of determining the ash content of extra-white sugar, sugar solution, invert sugar solution, invert sugar syrup and fructose is the method of ICUMSA as set out in Chapter A, paragraph 1, of the Annex to Regulation (EEC) No. 1265/69. For the purpose of determining the number of points, one point corresponds to 0.0018% of ash.
4. The method of determining the colour in solution of extra-white sugar and sugar solution is the method of ICUMSA set out in Chapter A, paragraph 3 of the Annex to Regulation (EEC) No. 1265/69. For the purpose of determining the number of points for the purposes of paragraph 3 of Schedule 1, one point corresponds to 7.5 units.
5. The method for determining the dry matter content of glucose syrup, dried glucose syrup, dextrose or dextrose monohydrate and dextrose or dextrose anhydrous is Method 2.
6. The method for determining the dry matter content of sugar solution, invert sugar solution and invert sugar syrup is Method 3.
7. The method for determining the invert sugar content of semi-white sugar is Method 4.
8. The method for determining the invert sugar content of sugar or white sugar and extra-white sugar is Method 5.
9. The method for determining the invert sugar content of sugar solution, invert sugar solution and invert sugar syrup is Method 7.
10. The method for determining the sulphated ash content of glucose syrup, dried glucose syrup, dextrose or dextrose monohydrate and dextrose or dextrose anhydrous is Method 9.
11. The method for determining the polarisation of semi-white sugar, sugar or white sugar and extra-white sugar is Method 10.
12. For the purposes of this Schedule—
 - (a) references to Methods 1, 2, 3, 4, 5, 7, 9 and 10 are references to the Methods specified by the same numbers in Annex II to Commission Directive 79/796/EEC(b) laying down Community methods of analysis for testing certain sugars intended for human consumption, as read with the introduction to that Annex; and
 - (b) “ICUMSA” means the International Commission for Uniform Methods of Sugar Analysis.

(a) OJ No. L163, 1.7.1969, p. 1.
(b) OJ No. L239, 22.9.79, p. 24.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England, implement Council Directive 2001/111/EC relating to certain sugars intended for human consumption (OJ No. L10, 12.1.2002, p.53) apart from Article 2.2 which concerns the labelling of weights on small pre-packaged products. They revoke and replace the Specified Sugar Products Regulations 1976, as amended, in relation to England.

The Regulations—

- (a) prescribe definitions and reserved descriptions for certain specified sugar products (regulation 2 and Schedules 1 and 2);
- (b) provide for the Regulations to apply to such specified sugar products intended for human consumption and ready for delivery to the ultimate consumer or to a catering establishment (regulation 3);
- (c) restrict the use of reserved descriptions to the specified sugar products to which they relate (regulation 4);
- (d) prescribe labelling requirements for such products (regulation 5);
- (e) prescribe the manner of marking or labelling by applying specified provisions of the Food Labelling Regulations 1996 (regulation 6);
- (f) specify a penalty, enforcement authorities and, in accordance with Articles 2 and 3 of Council Directive 89/397/EEC on the official control of foodstuffs (OJ No. L186, 30.6.89, p.23) and the European Economic Area Agreement, a defence in relation to exports (regulations 7 and 8);
- (g) apply various provisions of the Food Safety Act 1990 (regulation 9);
- (h) revoke the previous Regulations and make consequential amendments and transitional provision (regulations 10 and 11). An effect of the revocation contained in regulation 10(1)(a) and the absence of any re-enactment of the provision thereby revoked is that Part II of the Food Labelling Regulations 1996 will apply in relation to the products to which these Regulations relate.

A Regulatory Impact Assessment has been prepared and placed in the Library of each House of Parliament, together with a Transposition Note setting out how the main elements of the European legislation referred to above are transposed in these Regulations. Copies may be obtained from the Food Labelling and Standards Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

£2.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E0785 6/2003 130785 19585

ISBN 0-11-046503-2



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