1. ------IND- 2019 0524 D-- EN- ------ 20191031 --- --- PROJET

Draft bill of the Federal Ministry of Food and Agriculture

Fourth Ordinance amending the Fruit Juice and Soft Drinks Ordinance[[1]](#footnote-1))

of …

On the basis of § 13(1)(1)(a), (2) and (4)(1)(a) and (b) and § 35(1) of the Food and Feed Code in the edition published on 3 June 2013 (Federal Law Gazette I p. 1426), last amended by Article 1 of the Act of 24 April 2019 (Federal Law Gazette I p. 498) and in consultation with the Federal Ministry of Economic Affairs and Energy, the Federal Ministry of Food and Agriculture enacts the following:

Article 1

The Fruit Juice and Soft Drinks Ordinance, in the version published on 24 May 2004 (Federal Law Gazette I p. 1016), last amended by Article 12 of the Ordinance of 5 July 2017 (Federal Law Gazette I p. 2272), is amended as follows:

* + - 1. The title of the Ordinance shall be reworded as follows:

‘Ordinance on fruit juice, fruit nectar, caffeine-containing soft drinks and herbal and fruit tea for infants or young children (fruit juice, soft drinks and tea - FrSaftErfrischGetrTeeV)’.

* + - 1. In § 1, the following (2) is appended after (3):

‘3. This Ordinance shall also apply to herbal and fruit teas for infants and young children, in accordance with Section 4.’

* + - 1. The following § 4 is added after § 6:

‘Section 4

Herbal and fruit tea for infants or young children

Definitions

* + 1. Herbal and fruit tea for infants or young children within the meaning of this Ordinance are
       1. tea-like products, extracts of tea-like products or preparations of foodstuffs containing extracts of tea-like products, which still have to be prepared with water in order to be consumed, and
       2. ready-to-drink beverages made from tea-like products, extracts or preparations thereof,

which are intended for consumption by infants or young children according to their name, other indications or symbols on the packaging or on a label affixed thereto, their presentation, appearance or based on advertising messages.

* + 1. For the purposes of this Ordinance, the following definitions shall apply:
       1. for the term ‘infant’, the definition provided for in Article 2(2)(a) of Regulation (EU) No 609/2013 of the European Parliament and of the Council of 12 June 2013 on food for infants and young children, food for special medical purposes and daily rations for weight control diet and repealing Council Directive 92/52/EEC, Commission Directives 96/8/EC, 1999/21/EC, 2006/125/EC and 2006/141/EC, Directive 2009/39/EC of the European Parliament and of the Council and Council Regulations (EC) No 41/2009 and (EC) No 953/2009 (OJ L 181, 29.6.2013, p. 35) and
       2. for the term ‘young child’ the definition provided for in Article 2(2)(b) of Regulation (EU) No 609/2013.

Special requirements for manufacture and placement on the market

* + 1. Herbal and fruit tea for infants or young children may only be placed on the market in the form of prepackaged food.
    2. Herbal and fruit tea for infants or young children must be suitable as a drink for these special consumer groups. In particular, the following may not be used in the manufacture of herbal and fruit tea for infants or young children
       1. sugar referred to in Article 2(4) in conjunction with point 8 of Annex I to Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers (OJ L 304, 22.11.2011, p. 18),
       2. honey,
       3. malt extract or other syrups or concentrated juices derived from vegetable raw materials or
       4. waste type according to Annex 1.

(3) § 14(1)(1) of the Diet Ordinance as promulgated on 28 April 2005 (Federal Law Gazette I p. 1161), last amended by Article 22 of the Ordinance of 5 July 2017 (Federal Law Gazette I p. 2272) is to be applied accordingly to herbal and fruit tea for infants or young children.

(4) Herbal and fruit teas for infants or young children that do not meet the requirements of paragraph 2(2) or paragraph 3 may not be placed on the market.

Labelling of herbal and fruit tea for infants or young children

Herbal and fruit tea for infants or young children may not be placed on the market unless the markings on the packaging or on a label affixed thereto contains the following information:

* + - 1. the indication that the addition of sugar and other sweetening ingredients should be avoided during their preparation and before administration, and
      2. the indication of the age at which they can be used; this age must not be below four months.

The information in sentence 1 must be clearly visible, clearly and legibly marked on the packaging and may not be covered or obscured by any other information or pictorial or other inserted material.’

* + - 1. The previous Section 4 becomes Section 5.
      2. The previous § 7 becomes § 10.
      3. The previous § 8 becomes § 11 and is amended as follows:
         1. In paragraph 1, the words ‘or § 8(4)’ are inserted after the specification ‘contrary to § 5’.
         2. In paragraph 2, the specification ‘§ 7’ is replaced by ‘§ 10’.
         3. In paragraph 4 the words ‘or § 6(1)’ are replaced by a comma and the words ‘§ 6(1), § 8(1) or § 9(1)’.
      4. The previous § 9 is deleted.
      5. The following § 12 is inserted after the new § 11:

‘§ 12

Transitional provision for herbal and fruit tea for infants or young children

Until … [insert: day of the sixth month following the entry into force of this Ordinance, which corresponds to the date of entry into force of this Ordinance], herbal and fruit teas for infants or young children may be manufactured and labelled in accordance with the provisions in effect until ... [insert: The date of entry into force of this Ordinance]. Herbal and fruit tea for infants and young children manufactured and labelled in accordance with sentence 1 may still be marketed until the depletion of stocks.’

* + - 1. The previous § 11 becomes § 13.
      2. In Annex 1, the words ‘(re § 1(1), § 2(1) to (5), § 3(1) to (3) and § 7)’ are replaced by the words ‘(re § 1(1), § 2(1) to (5), § 3(1) to (3) and § 10)’.

Article 2

The Federal Ministry of Food and Agriculture may publish in the Federal Law Gazette the text of the Fruit Juice and Soft Drinks Ordinance in the version valid from the time this Ordinance enters into force.

Article 3

This Ordinance shall enter into force on the day following its promulgation.

Approved by the Bundesrat.

Bonn, dated…………

The Federal Minister for Nutrition and Agriculture

Julia Klöckner

1. ) Notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1). [↑](#footnote-ref-1)