
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 145

The Fish Labelling (Scotland) Regulations 2003

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Fish Labelling (Scotland) Regulations 2003 and shall come into force on 28th March 2003.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“the Agency” means the Food Standards Agency;

“Regulation 104/2000” means Council Regulation (EC) No. 104/2000 on the common organisation of the markets in fishery and aquaculture products⁽¹⁾;

“Regulation 2065/2001” means Commission Regulation (EC) No. 2065/2001 laying down detailed rules for the application of Council Regulation (EC) No. 104/2000 as regards informing consumers about fishery and aquaculture products⁽²⁾ as corrected by a Corrigendum published on 12th January 2002⁽³⁾.

(2) Any expressions used both in these Regulations and in Regulation 104/2000 or Regulation 2065/2001 have the same meaning in these Regulations as they bear in Regulation 104/2000 or Regulation 2065/2001.

Offences relating to consumer information

3.—(1) Any person who, in contravention of Article 4(1) of Regulation 104/2000 (consumer information) as read with Regulation 2065/2001, offers for retail sale to the final consumer any product to which that Article applies shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any person who at any stage of marketing fails to comply with Article 8 of Regulation 2065/2001 (traceability and control) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

List of commercial designations

4.—(1) The list of commercial designations which the United Kingdom is required to draw up and publish under Article 4(2) of Regulation 104/2000 is set out in the Schedule to these Regulations, and accordingly, the commercial designations set out in the Schedule are names prescribed by law for the purposes of regulation 6(1) of the Food Labelling Regulations 1996⁽⁴⁾.

(1) O.J. No. L 17, 21.1.00, p.22.

(2) O.J. No. L 278, 23.10.01, p.6.

(3) O.J. No. L 10, 12.1.02, p.82.

(4) S.I.1996/1499; the only relevant amendment to which is made by S.I. 1998/1398 inserting regulation 6(4) (which defines “prescribed by law” for the purposes of regulation 6(1)).

(2) In relation to a species included both in the Schedule to these Regulations and in a list published in the English language under Article 4(2) of Regulation 104/2000 having effect in another member State of the European Community or in another part of the United Kingdom, the commercial designation for that species in the list having effect in the other member State or part of the United Kingdom shall be an alternative to the commercial designation for that species set out in the Schedule to these Regulations.

Omission of reference to the production method

5. In the case described in Article 4(2) of Regulation 2065/2001 (situation where it is obvious from commercial designation and catch area that the species is caught at sea) it shall not be a contravention of Article 4(1) of Regulation 104/2000 to offer for retail sale to the final consumer any product to which Article 4(1) of Regulation 104/2000 applies without the product being marked or labelled with the production method.

Small quantities of products

6.—(1) For the purposes of Article 4(1) of Regulation 104/2000, as read with Article 7 of Regulation 2065/2001, the small quantity of products which may be sold directly to consumers shall be products to a value not exceeding 20 Euro for each purchase.

(2) For the purposes of paragraph (1) above, the reference to 20 Euro shall be taken to be a reference to the Sterling equivalent of that number of Euro, converted by reference to the rate of conversion published annually on the first working day of the preceding September in the C series of the Official Journal of the European Communities or, if no rate is published in it on that day, the first rate published in it thereafter.

Additional information relating to the catch area

7. The indication of catch area required by Article 4(1)(c) of Regulation 104/2000 may, where the circumstances described in Article 5(1)(c) of Regulation 2065/2001 apply, indicate the various member States or third countries in which the product was farmed.

Provisional commercial designations

8.—(1) For the purposes of Article 2 of Regulation 2065/2001 (provisional commercial designations), the Agency shall be the competent authority.

(2) The Agency shall draw up and publish a list of provisional commercial designations laid down pursuant to the said Article 2.

Enforcement

9. Each food authority shall enforce and execute these Regulations within its area.

Application of various provisions of the Act

10. The following provisions of the Act shall apply for the purposes of these Regulations, and for the purposes of those provisions of Regulation 104/2000 and Regulation 2065/2001 to which these Regulations relate in like manner as they apply for the purposes of the Act, and any reference in those provisions of the Act to the Act or Part thereof shall be construed for the purposes of these Regulations as including a reference to these Regulations and to those provisions of Regulation 104/2000 and Regulation 2065/2001 to which these Regulations relate—

(a) section 3 (presumption that food is intended for human consumption);

- (b) section 20 (offences due to fault of another person);
- (c) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15 of the Act;
- (d) section 30(8) (which relates to documentary evidence);
- (e) section 32 (powers of entry);
- (f) section 33 (obstruction etc. of officers);
- (g) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by paragraph (f) above;
- (h) section 36 (offences by bodies corporate);
- (i) section 36A (offences by Scottish partnerships); and
- (j) section 44 (protection of officers acting in good faith).

Revocations

11. Paragraph 1 of Schedule 1 (prescribed names of fish and shellfish) to the Food Labelling Regulations 1996 is omitted.

St Andrew's House, Edinburgh
5th March 2003

MARY MULLIGAN
Authorised to sign by the Scottish Ministers