

1987 No. 1783

AGRICULTURE

The Olive Oil (Marketing Standards) Regulations 1987

<i>Made</i> - - - -	<i>6th October 1987</i>
<i>Laid before Parliament</i>	<i>19th October 1987</i>
<i>Coming into force</i>	<i>1st November 1987</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred upon them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, extent and commencement

1. These Regulations, which extend to Great Britain, may be cited as the Olive Oil (Marketing Standards) Regulations 1987 and shall come into force on 1st November 1987.

Interpretation

2.—(1) In these Regulations—

“the Council Regulation” means Regulation No. 136/66/EEC of the Council(c) on the establishment of a common organisation of the market in oils and fats as amended in particular by Council Regulation (EEC) No. 1915/87(d);

“enforcement authority” shall be construed in accordance with regulation 3 of these Regulations;

“oil” means any of the descriptions of olive oils and olive-pomace oils referred to in Article 35 of the Council Regulation and described in the Annex to that Regulation.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meaning as in the Council Regulation.

(3) References in these Regulations to the sale of oil by a person include references to his offering or exposing oil for sale and to his having oil in his possession for sale, and references to cognate expressions shall be construed accordingly.

Enforcement

3. These Regulations shall be enforced—

(a) in relation to imports, in England and Wales by the relevant port health authority, and in Scotland by a district or islands council within the meaning of section 26 of the Food and Drugs (Scotland) Act 1956(e);

(a) S.I. 1972/1811.

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48); and as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982, and with S.I. 1984/526.

(c) OJ No. 172, 30.8.66, p. 3025/66 (OJ/SE 1965-66 p. 221).

(d) OJ No. L183, 3.7.87, p. 7.

(e) 1956 c. 30.

(b) at the retail stage, by the food and drugs authority as defined as respects England and Wales in section 71 of the Food Act 1984(a), and as respects Scotland by the above-mentioned district or islands councils;

(c) at all other stages, in England by the Minister of Agriculture, Fisheries and Food and in Scotland and Wales by the Secretary of State.

Offences relating to the marketing of oil

4.—(1) Subject to paragraph (2) of this regulation, a person who in selling any oil contravenes Article 35.1 of the Council Regulation (which provides that certain descriptions and definitions of oil shall, in relation to the marketing of oil, be compulsory) as read with the Annex thereto commits an offence under this regulation.

(2) Before 1st January 1990 it shall not be an offence under this regulation—

(a) in relation to sale in Great Britain, to use a description or definition of oil which is in commercial use in the United Kingdom immediately before these Regulations come into force, or

(b) in relation to the sale of oil referred to in point 3 of that Annex, being oil which is intended for export from the United Kingdom, to use the description “pure olive oil”.

(3) A person who sells by retail any oil other than oil referred to in points 1(a) and (b), 3 and 6 of the Annex to the Council Regulation in contravention of Article 35.2 of that Regulation (which provides that only oil satisfying certain definitions shall be marketed at the retail stage) as read with that Annex commits an offence under this regulation.

(4) Where the commission by any person of an offence under this regulation is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

(5) In proceedings against any person for an offence under this regulation it shall be a defence for that person to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(6) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding £2,000.

Powers of authorised officers of enforcement authorities

5.—(1) For the purpose of enforcing these Regulations an authorised officer of an enforcement authority, on producing, if so required, some duly authenticated document showing his authority, may—

(a) at all reasonable times enter any premises (other than premises used only as a dwelling) on which he reasonably suspects that oil is being, or has been, sold; and

(b) inspect and take samples of oil and inspect and remove any container of oil found on the premises.

(2) Any person who intentionally obstructs an authorised officer of an enforcement authority acting in pursuance of these Regulations shall be guilty of an offence under this regulation and shall be liable on summary conviction to a fine not exceeding £400.

Offences by bodies corporate

6. Where an offence under any provision of these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(a) 1984 c. 30.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 6th October 1987.



John MacGregor
Minister of Agriculture, Fisheries and Food

5th October 1987

Sanderson of Bowden
Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the enforcement of Article 35 of Regulation No. 136/66/EEC of the Council on the establishment of a common organisation of the market in oils and fats ("the Council Regulation") (OJ No. 172, 30.8.66, p. 3025/66; OJ/SE 1965-66 p. 221) as amended by Council Regulation (EEC) No. 1915/87 (OJ No. L183, 3.7.87, p. 7). They apply in Great Britain and come into force on 1st November 1987.

Article 35 of the Council Regulation makes the use of prescribed descriptions and definitions of olive oils and olive-pomace oils (formerly known as olive residue oils) compulsory for the purposes of trade, and prohibits the marketing by retail of certain categories of such oil. These descriptions and definitions are set out in the Annex to the Council Regulation. There are transitional measures (applicable until 31st December 1989) permitting the continued use of definitions and descriptions of olive oil and olive-pomace oil in use in Member States and allowing the expression "pure olive oil" to be used for exports of olive oil as defined in point 3 of the Annex to the Council Regulation.

In implementation of Article 35 of the Council Regulation, these Regulations—

- (a) designate the authorities who are to enforce Article 35 of the Council Regulation (regulation 3);
- (b) prescribe offences and penalties for contravention of Article 35 of the Council Regulation, and provide for certain defences (regulations 4 and 6);
- (c) create powers of entry, inspection and sampling (regulation 5).