

1990 No. 1084

**AGRICULTURE**

**The Preserved Sardines (Marketing Standards)  
Regulations 1990**

<i>Made - - - -</i>	<i>16th May 1990</i>
<i>Laid before Parliament</i>	<i>24th May 1990</i>
<i>Coming into force</i>	<i>14th June 1990</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 on them by the said section 2(2) and of all other powers enabling them in that behalf, and the Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by section 119 of the Food Act 1984(c) and now vested in them(d) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Title and commencement**

1. These Regulations, which extend to England and Wales only, may be cited as the Preserved Sardines (Marketing Standards) Regulations 1990 and shall come into force on 14th June 1990.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Food Act 1984;

“the Council Regulation” means Council Regulation (EEC) No. 2136/89 laying down common marketing standards for preserved sardines(e);

“specified Community provision” means a provision of the Council Regulation specified in column 1 of the Schedule to these Regulations and described in column 2 thereof.

(2) Other expressions used in these Regulations have, insofar as the context admits, the same meanings as in the Council Regulation.

**Enforcement**

3. Each food and drugs authority(f) is hereby designated an enforcement authority for the purposes of the Council Regulation and shall secure the enforcement and execution of the specified Community provisions within its area.

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(a) S.I. 1972/1811.

(b) 1972 c.68.

(c) 1984 c.30; section 132(1) contains a definition of “the Ministers” for the purposes of section 119.

(d) In the case of the Secretary of State for Health by virtue of S.I. 1988/1843 and in the case of the Secretary of State for Wales by virtue of S.I. 1978/272.

(e) OJ No. L212, 22.7.89, p.79.

(f) See section 71 of the Food Act 1984.

### **Powers of Authorised Officers**

4. An authorised officer (a), having reasonable cause to suspect that an offence under these Regulations has been committed, being provisions which the enforcement authority are required or empowered to enforce, and on producing, if so required, some duly authenticated document showing his authority, upon exercising a right to enter premises or any other place under sections 87 and 88 of the Act, may require any person carrying on a trade or business or employed in connection with a trade or business, to produce any books or documents relating to the trade or business, and he may take copies of any such book or document, or of any entry in any such book or document.

### **Offences and Penalties**

5. Any person who contravenes or fails to comply with any specified Community provision shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Applications of various provisions of the Act**

6.—(1) Without prejudice to the provisions of the Act which specifically apply in respect of Regulations made thereunder and subject to paragraph (2) of this regulation, the following provisions of the Act shall apply for the purposes of enforcement and execution of the specified Community provisions as if references therein to proceedings, or a prosecution, under or taken or brought under the Act included references to proceedings, or a prosecution, as the case may be, taken or brought for an offence under these Regulations—

- (a) section 95(5) and (6) (which relates to prosecutions);
- (b) section 97(1), (2) and (3) (which relates to evidence of analysis);
- (c) section 99 (which relates to the power of a Court to require analysis by the Government Chemist);
- (d) section 100 (which relates to a contravention due to some person other than the person charged);
- (e) section 102(2) (which relates to the conditions under which a warranty may be pleaded as a defence); and
- (f) section 103 (which relates to offences in relation to warranties and certificates of analysis).

(2) Section 99 of the Act shall apply for the purposes of these Regulations as if the reference therein to section 95(6) of the Act included a reference to that subsection as applied by paragraph (1) of this regulation.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 8th May 1990.



*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

16th May 1990

*Kenneth Clarke*  
Secretary of State for Health

15th May 1990

*David Hunt*  
Secretary of State for Wales

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(a) See section 73 of the Food Act 1984.

**SCHEDULE**

Regulation 2

**SPECIFIED COMMUNITY PROVISIONS**

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<b>Column 1</b> <i>Provision of Council Regulation</i>	<b>Column 2</b> <i>Subject Matter</i>
1. Article 2	Requirements relating to the marketing of products as preserved sardines and under the trade description referred to in Article 7
2. Article 3	General requirements as to presentation
3. Article 4	Particular requirements as to presentation in relation to prescribed descriptions of market presentation
4. Article 5	Requirements as to covering media
5. Article 6(1)	Minimum requirements to be satisfied by the contents of the container after sterilisation
6. Article 6(2)	Requirements as to the presentation of the container
7. Article 7	Requirements as to the trade description on the pre-packaging of preserved sardines.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the execution and enforcement of directly applicable Community provisions relating to the marketing of preserved sardines in the Community set out in Council Regulation (EEC) No. 2136/89 (OJ No. L212, 22.7.89, p.79).

### The Regulations—

- (a) designate enforcement authorities (regulation 3);
- (b) add a power to require the production of books and documents, and to take copies of books and documents, to the powers available to authorised officers of the enforcement authorities under Part VI of the Food Act 1984 (“the Act”) (regulation 4);
- (c) prescribe offences and penalties (regulation 5);
- (d) make certain provisions of the Act apply to prosecutions or proceedings under regulation 5 of the Regulations as if they were prosecutions or proceedings under the Act (regulation 6).

Section 91 of the Act contains offences of obstructing any person acting in the execution of regulations made under the Act. The enforcement provisions of Part VI of the Act apply to these Regulations.

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