

1990 No. 1139 (S.133)

AGRICULTURE

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

<i>Made</i> - - - -	<i>22nd May 1990</i>
<i>Laid before Parliament</i>	<i>5th June 1990</i>
<i>Coming into force</i>	<i>26th June 1990</i>

The Secretary of State, in exercise of the powers conferred on him by section 2(2) of the European Communities Act 1972(a) (being one of the Ministers designated(b) for the purposes of the said section 2(2) of the last mentioned Act in relation to the common agricultural policy of the European Economic Community), and by sections 26(3), 56 and 56A of the Food and Drugs (Scotland) Act 1956(c) and of all other powers enabling him in that behalf and after consultation in accordance with section 56(6) of the said Act of 1956 with such organisations as appear to him to be representative of interests substantially affected by the Regulations, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Preserved Sardines (Marketing Standards) (Scotland) Regulations 1990 and shall come into force on 26th June 1990.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food and Drugs (Scotland) Act 1956;

“authorised officer” has the meaning given to it by section 58 of the Act;

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

“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, in so far as the context admits, the same meanings as in the Council Regulation.

Powers of authorised officers

3. An authorised officer, having reasonable cause to suspect that an offence under these Regulations has been committed, being provisions which the enforcement authority are

(a) 1972 c.68.

(b) 1972/1811.

(c) 1956 c.30; section 26(3) was amended by the Local Government (Scotland) Act 1973 (c.65), Schedule 27, Part II, paragraph 123(a) and by the Local Government and Planning (Scotland) Act 1982 (c.43), Schedule 4, Part I; section 56 was amended by the Weights and Measures Act 1963 (c.31), Schedule 9, Parts I and II, by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraph 8, and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c.73), section 41 and is to be read with section 289GA(2) of the Criminal Procedure (Scotland) Act 1975 (c.21) (inserted by section 66 of the Criminal Justice (Scotland) Act 1987 (c.41)); section 56A was added by the European Communities Act 1972, Schedule 4, paragraph 3(2).

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

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 36 and 37 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, penalties and enforcement

4.—(1) 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 the statutory maximum.

(2) Each islands and district council shall enforce and execute these Regulations in its area, and is hereby designated an enforcement authority for the purposes of the Council Regulation.

Applications of various provisions of the Act

5.—(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 provision 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 41(2), (3) and (5) (which relates to proceedings);
- (b) section 42(1) and (3) (which relates to evidence of analysis);
- (c) section 44 (which relates to the power of a Court to require analysis by the Government Chemist);
- (d) section 45 (which relates to a contravention due to default by some other person);
- (e) section 46 (which relates to a warranty pleaded as a defence); and
- (f) section 47 (which relates to offences as to warranties and certificates of analysis).

(2) Section 44 of the Act shall apply for the purposes of these Regulations as if the reference therein to section 41(5) of the Act included a reference to that subsection as applied by paragraph (1) of this regulation.

St. Andrew's House, Edinburgh
22nd May 1990

Sanderson of Bowden
Minister of State,
Scottish Office

SCHEDULE

Regulation 2

SPECIFIED COMMUNITY PROVISIONS

Column 1	Column 2
<i>Provision of Council Regulation</i>	<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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Scotland only, 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) provide a power to authorised officers to require the production of books and documents, and to take copies of books and documents (regulation 3);
- (b) prescribe offences and penalties and designate enforcement authorities (regulation 4);
- (c) apply various provisions of the Food and Drugs (Scotland) Act 1956 to prosecutions or proceedings under regulation 4 of the Regulations as if they were prosecutions or proceedings under the Act (regulation 5).

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