

1990 No. 1336 (S. 146)

FOOD

FOOD HYGIENE

**The Ungraded Eggs (Hygiene) (Scotland) Regulations
1990**

<i>Made</i>	<i>26th June 1990</i>
<i>Laid before Parliament</i>	<i>10th July 1990</i>
<i>Coming into force</i>	<i>31st July 1990</i>

The Secretary of State, in exercise of the powers conferred upon him by sections 13, 26(3) and 56 of the Food and Drugs (Scotland) Act 1956(a), and of all other powers enabling him in that behalf, having in accordance with section 56(6) of the said Act consulted with such organisations as appear to him to be representative of interests substantially affected by these Regulations, hereby makes the following Regulations:

Title, extent and commencement

1. These Regulations, which may be cited as the Ungraded Eggs (Hygiene) (Scotland) Regulations 1990, shall apply to Scotland and shall come into force on 31st July 1990.

Interpretation

2. In these Regulations, unless the context otherwise requires—
“the Act” means the Food and Drugs (Scotland) Act 1956;
“the Council Regulation” means Regulation (EEC) No. 2772/75 of the Council of the European Communities on marketing standards for eggs(b);
“sell” includes offer or agree to sell or expose for sale and “sold” shall be construed accordingly;
“sold by retail” means sold to a person buying otherwise than for the purpose of re-sale, but does not include selling to a caterer for the purposes of his catering business or to a manufacturer for the purposes of his manufacturing business.

Scope

3. These Regulations apply to eggs which are sold by retail for human consumption by the producer on his own farm, in a local public market or from door to door, which have

(a) 1956 c.30; section 26(3) was amended by paragraph 123 of Part II of Schedule 27 to the Local Government (Scotland) Act 1973 (c.65) and by section 22(a) of the Local Government and Planning (Scotland) Act 1982 (c.43); section 56 was amended by the Weights and Measures Act 1963 (c.31), Schedule 9, Parts I and II; section 56(8) was also amended by, and section 56(8A) inserted by, paragraph 8 of Schedule 15 to the Criminal Justice Act 1982 (c.48); section 56(8A) was amended by 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) as inserted by section 66 of the Criminal Justice (Scotland) Act 1987 (c.41).

(b) O.J. No. L282, 1.11.75, p.56. The amending instruments are Council Regulation (EEC) No. 1831/84 OJ No. L172, 30.6.84, p.2, Council Regulation (EEC) No. 3341/84 OJ No. L312, 30.11.84, p.7, Council Regulation (EEC) No. 3791/85 OJ No. L367, 31.12.85, p.6 and Council Regulation (EEC) No. 3494/86 OJ No. L323, 18.11.86, p.1.

come from his own production, are not packed in accordance with Articles 16 to 19 of the Council Regulation and in respect of which no use is made of any of the quality or weight gradings laid down by that Regulation.

Hygiene requirements

4. Eggs to which these Regulations apply shall contain no crack visible, without candling, to the naked eye.

Penalties and enforcement

5.—(1) If any person contravenes or fails to comply with any provision of these Regulations he shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding one year or both.

(2) Each district and islands council shall enforce and execute these Regulations in its area.

Application of various provisions of the Act

6.—(1) Subject to paragraph (2) of this regulation, the following provisions of the Act shall apply for the purposes of these Regulations 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 analysis by the Government Chemist);
- (d) section 45 (which relates to a contravention due to default of some other person);
- (e) section 46(2) (which relates to a warranty pleaded as a defence);
- (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
26th June 1990

Sanderson of Bowden
Minister of State,
Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to the retail sale by the producer from his own production of ungraded eggs (which have not been packed in accordance with Articles 16 to 19 of Council Regulation (EEC) 2772/75 as amended) on his own farm, in a local public market and by door-to-door selling (regulation 3).

It is an offence under the Regulations for the producer to sell, or to offer for sale, such eggs with cracks which are visible without candling to the naked eye (regulation 4).

Offences under the Regulations, which are enforceable by district and islands councils, are punishable, on summary conviction, by a fine not exceeding the statutory maximum or, on conviction on indictment, by a fine or imprisonment for a term not exceeding 1 year or both (regulation 5). Regulation 6 applies various provisions of the Food and Drugs (Scotland) Act 1956 to prosecutions or proceedings under the Regulations as if they were prosecutions or proceedings under the Act.