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STATUTORY INSTRUMENTS

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**1998 No. 452**

**FOOD**

**The Spreadable Fats (Marketing Standards) (Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>25th February 1998</i>
<i>Laid before Parliament</i>		<i>26th February 1998</i>
<i>Coming into force</i>	- -	<i>20th March 1998</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4), 16(1), 17(2), 26(1) and (3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup> and of all other powers enabling them in that behalf, after consultation in accordance with section 48(4) of that Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations, hereby make the following Regulations:

**Title, commencement and interpretation**

1.—(1) These Regulations may be cited as the Spreadable Fats (Marketing Standards) (Amendment) Regulations 1998 and shall come into force on 20th March 1998.

(2) In these Regulations “the principal Regulations” means the Spreadable Fats (Marketing Standards) Regulations 1995<sup>(2)</sup>.

**Amendment of the principal Regulations**

2. The principal Regulations shall be amended in accordance with regulations 3 to 7 below.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) there shall be inserted after the definition of “the Act” the following definition—

““the Commission Regulation” means Commission Regulation (EC) No. 577/97 laying down certain detailed rules for the application of the Council Regulation and of Council Regulation (EEC) No. 1898/87 on the protection of

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(1) 1990 c. 16; “the Ministers” is defined in section 4(1) of the Act; section 6(4)(a) of the Act was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6.

(2) S.I. 1995/3116.

designations used in the marketing of milk and milk products<sup>(3)</sup>, as amended by Commission Regulation (EC) No. 1278/97<sup>(4)</sup> and Commission Regulation (EC) No. 2181/97<sup>(5)</sup>”;

(ii) there shall be substituted for the definition of “Community provision” the following definition—

““Community provision” means a provision of the Council Regulation or the Commission Regulation which is referred to in column 1 of Schedule 1 to these Regulations, as read with any supplementary provision referred to in column 2 thereof opposite the reference in column 1;”;

(b) in paragraph (2) there shall be inserted at the end the words “and the Commission Regulation”.

4. In regulation 3(1) (exemptions)—

(a) there shall be substituted for the words “Subject to paragraph (2) below, in the absence of” the words “Except where paragraph (2) below applies, unless and until there is”;

(b) there shall be inserted after the words “the Council Regulation” the words “and the Commission Regulation”.

5. In regulation 7 (defence in relation to exports)—

(a) there shall be substituted for the words “under these Regulations” the words “under regulation 6(1)(b) of these Regulations”;

(b) in paragraph (b)—

(i) there shall be substituted for the word “Regulations” the words “Regulation and the Commission Regulation”;

(ii) there shall be inserted after the words “to the Council Regulation” the words “and the Commission Regulation”.

6. There shall be substituted for regulation 8 (application of various provisions of the Act) the following regulation—

**“Application of various provisions of the Act**

8.—(1) The following provisions of the Act shall apply for the purposes of these Regulations and, unless the context otherwise requires, any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations—

section 2 (extended meaning of “sale” etc.);

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

section 20 (offences due to fault of another person);

section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15;

section 22 (defence of publication in the course of a business);

section 30(8) (which relates to documentary evidence);

section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2);

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(3) OJ No. L87, 2.4.97, p.3.

(4) OJ No. L175, 3.7.97, p.6.

(5) OJ No. L299, 4.11.97, p.1.

section 36 (offences by bodies corporate).

(2) The following provisions of the Act shall apply for the purposes of these Regulations and, unless the context otherwise requires, any reference in those provisions to the Act shall be construed for the purposes of these Regulations as including a reference to the Community provisions—

section 32 (powers of entry);

section 33 (obstruction etc. of officers);

section 44 (protection of officers acting in good faith).”.

7. There shall be substituted for Schedule 1 (Community provisions) the Schedule to these Regulations.

25th February 1998

*Jeff Rooker*  
Minister of State, Ministry of Agriculture,  
Fisheries and Food

Signed by authority of the Secretary of State for Health

20th February 1998

*Tessa Jowell*  
Minister of State for Public Health,  
Department of Health

Signed by authority of the Secretary of State for Wales

23rd February 1998

*Win Griffiths*  
Parliamentary Under Secretary of State, Welsh  
Office

23rd February 1998

*Sam Galbraith*  
Parliamentary Under Secretary of State, Scottish  
Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 7

## CONTAINING NEW SCHEDULE 1 TO THE PRINCIPAL REGULATIONS

## “SCHEDULE 1

Regulations 2(1), 5 and 6

## COMMUNITY PROVISIONS

<i>Community Provision</i>	<i>Supplementary Provisions</i>	<i>Subject Matter</i>
<b>1.</b> The Council Regulation:	Article 1 of the Council Regulation and Article 1 of, and Annex I to, the Commission Regulation	Restrictions on marketing of spreadable fats
(a) Article 2		
(b) Article 3	Article 2 of, and Annex II to, the Commission Regulation	Requirements relating to the labelling and presentation of spreadable fats
(c) Article 4		Restriction on use of the term “traditional” with the name “butter”
(d) Article 5		Restriction on use of terms relating to fat content
(e) Article 7		Requirements relating to fats imported from third countries
<b>2.</b> The Commission Regulation: Article 3	Article 5 of the Commission Regulation	Restriction on use of the designation “butter” by composite products”

## EXPLANATORY NOTE

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

These Regulations, which apply to Great Britain, amend the Spreadable Fats (Marketing Standards) Regulations 1995 (“the principal Regulations”). The Regulations make provision (in regulations 3 and 7 and the Schedule) for the enforcement and execution of Commission Regulation (EC) No. 577/97 laying down certain detailed rules for the application of Council Regulation (EC) No. 2991/94 laying down standards for spreadable fats and of Council Regulation (EEC) No. 1898/87 on the protection of designations used in the marketing of milk and milk products, as amended by Commission Regulation (EC) No. 1278/97 and Commission Regulation (EC) No. 2181/97.

The subject matter of the detailed Commission rules is briefly indicated in column 3 of the substituted Schedule 1 to the principal Regulations. Article 5a of the Commission Regulation contains a transitional provision in respect of trade marks registered in Austria, Finland or Sweden prior to 1st January 1995 and using the sales description “butter”.

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These Regulations also make a few technical and drafting amendments (regulations 4(a), 5(a) and 6) and some consequential amendments (regulation 4(b) and 5(b)).

Use of the designation “butter” is also restricted by Article 3 of Council Regulation (EEC) No. 1898/87 (OJ No. L182, 3.7.87, p.36), which is enforced in England and Wales by the Milk and Milk Products (Protection of Designations) Regulations 1990 (S.I.1990/607, as amended by S.I. 1990/2486) and in Scotland by the Milk and Milk Products (Protection of Designations) (Scotland) Regulations 1990 (S.I. 1990/816, as amended by S.I. 1990/2625).

A compliance cost assessment of the effect that these Regulations would have on the cost of business is available from Food Labelling and Standards Division Branch C, Ministry of Agriculture, Fisheries and Food, Room 325B, Ergon House, 17 Smith Square, London SW1P 3JR.