SCOTTISH STATUTORY INSTRUMENTS

1999 No.34

FOOD

The Spreadable Fats (Marketing Standards) (Scotland) Regulations 1999

Made - - - -	*19th August 1999*
Laid before the Scottish Parliament - - - -	*3rd September 1999*
Coming into force - -	*1st October 1999*

The Scottish Ministers, 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(**1**) and of all other powers enabling them in that behalf, after consultation in accordance with section 48(4) of that Act with such organisation as appear to them to be representative of interest likely to be substantially affected by the Regulations, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Spreadable Fats (Marketing Standards) (Scotland) Regulations 1999 and shall come into force on 1 October 1999.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Food Safety Act 1990;

"the Commission Regulation" means Commission Regulation (EC) No. 577/97(**2**) laying down certain detailed rules for the application of the Council Regulation 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(**3**) Commission Regulation (EC) No. 2181/97(**4**) Commission Regulation (EC) No. 623/98(**5**)

(**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; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**2**) OJ No. L87, 2.4.97, p.3.
(**3**) OJ No. L175, 3.7.97, p.6.
(**4**) OJ No. L299, 4.11.97, p.1.
(**5**) OJ No. L85, 20.3.98, p.3.

Commission Regulation (EC) No. 1298/98(**6**) Commission Regulation (EC) No. 2521/98(**7**) and Commission Regulation (EC) No. 568/1999(**8**)

"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;

"the Council Regulation" means Council Regulation (EC) No. 2991/94(**9**) laying down standards for spreadable fats;

"EEA Agreement" means the Agreement on the European Economic Area(**10**) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(**11**) signed at Brussels on 17th March 1993;

"EEA State" means a State which is a Contracting Party to the EEA Agreement;

"sell" includes possess for sale, and offer, expose or advertise for sale;

"sell by retail" means sell to a person buying otherwise than for the purpose of re-sale;

"vitamin A" means vitamin A present as such or as its esters and includes beta-carotene on the basis that 6 micrograms of beta-carotene or 12 micrograms of other biologically active carotenoids equal 1 microgram of retinol equivalent;

"vitamin D" means the anti-rachitic vitamins.

(2) Other expressions used both in these Regulations and in the Council Regulation or the Commission Regulation have the same meaning in these Regulations as they have in the Council Regulation or the Commission Regulation.

Exemptions

3.—(1) Except where paragraph (2) below applies, unless and until there is a decision by the EEA Joint Committee under Article 98 of the EEA Agreement to amend it to refer to the Council Regulation and the Commission Regulation, these Regulations shall not apply in respect of any spreadable fat to which the EEA Agreement applies and which–

(a) is brought into Scotland–

(i) from an EEA State (other than a member State) in which it was lawfully produced and sold, or

(ii) from another part of the United Kingdom if that spreadable fat was brought there from such an EEA State; and

(b) is suitably labelled to indicate the nature of the spreadable fat.

(2) Regulation 4 of these Regulations shall not apply in respect of any margarine which–

(a) is brought into Scotland –

(i) from an EEA State (other than the United Kingdom) in which it was lawfully produced and sold;

(ii) from a Member State (other than the United Kingdom) in which it was in free circulation and lawfully sold; and

(iii) from another part of the United Kingdom in which it was lawfully produced and sold or in which it was in free circulation and lawfully sold; and

(**6**) OJ No. L180, 24.6.98, p.5.
(**7**) OJ No. L315, 25.11.98, p.12.
(**8**) OJ No. L70, 17.3.1999, p.11.
(**9**) OJ No. L316, 9.12.94, p.2.
(**10**) OJ No. L1, 3.1.94, p.1.
(**11**) OJ No. L1, 3.1.94, p.571.

(b) is suitably labelled to indicate the nature of the margarine.

(3) For the purposes of paragraph (2) above, "free circulation" has the same meaning as in Article 23(2) of the Treaty establishing the European Community.

Vitamin content of margarine

4.—(1) Any margarine sold by retail shall contain in every 100 grams of such margarine–

(a) not less than 800 micrograms and not more than 1000 micrograms of vitamin A, and

(b) not less than 7.05 micrograms and not more than 8.82 micrograms of vitamin D,

and a proportionate amount in any part of 100 grams.

(2) No person shall sell by retail any margarine in contravention of this regulation.

Enforcement

5. Each food authority shall enforce and execute within its area the Community provisions and these Regulations.

Offences and penalty

6. If any person contravenes or fails to comply with–

(a) regulation 4 of these Regulations, or

(b) any Community provision,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Defence in relation to exports

7. In any proceedings under regulation 6(b) of these Regulations it shall be a defence for the person charged to prove–

(a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that it complies with that legislation; and

(b) that the legislation complies with the Council Regulation and the Commission Regulation in the case of–

(i) export to a member State, or

(ii) where there is a decision of the EEA Joint Committee under Article 98 of the EEA Agreement to amend it to refer to the Council Regulation and the Commission Regulation, export to an EEA State which is not a member State.

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;