

1986 No. 1272

SEA FISHERIES

MARKETING

The Sea Fish (Marketing Standards) Regulations 1986

<i>Made</i> - - - - -	21st July 1986
<i>Laid before Parliament</i>	24th July 1986
<i>Coming into Operation</i>	14th August 1986

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, hereby make the following regulations:—

Title and commencement

1. These regulations may be cited as the Sea Fish (Marketing Standards) Regulations 1986 and shall come into operation on 14th August 1986.

Interpretation

2. In these regulations, unless the context otherwise requires—

“the Minister” means, in relation to England, the Minister of Agriculture, Fisheries and Food and, in relation to Northern Ireland, Scotland and Wales, the Secretary of State;

“Regulation 103/76” means Council Regulation (EEC) No 103/76 laying down common marketing standards for certain fresh or chilled fish **(c)**, as amended by Council Regulation (EEC) No 3396/85 **(d)** and read with Commission Regulation (EEC) No 3703/85 laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish **(e)**;

(a) By S.I. 1972/1811.

(b) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48) and S.I. 1984/447, as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), as inserted by section 54 of the Criminal Justice Act 1982 and S.I. 1984/526 and, as regards Northern Ireland, with S.I. 1984/703 (N.I. 3) and S.R. (N.I.) 1984 No. 253.

(c) OJ No L20, 28.1.76, p. 29.

(d) OJ No L322, 3.12.85, p. 1.

(e) OJ No L351, 28.12.85, p. 63.

“Regulation 104/76” means Council Regulation (EEC) No 104/76 laying down common marketing standards for shrimps (*Crangon crangon*), edible crabs (*Cancer pagurus*) and Norway lobsters (*Nephrops norvegicus*) (a), as amended by Council Regulations (EEC) Nos 3575/83(b) and 3118/85(c) and read with Commission Regulation (EEC) No 1048/86 defining the coastal areas of the United Kingdom to which a minimum marketing size for crab shall apply(d);

“saltwater fish” means fish of the descriptions referred to in article 3 of Regulation 103/76;

“shellfish” means shellfish of the descriptions referred to in article 1 of Regulation 104/76;

“specified Community provision” means a provision of an article of Regulation 103/76 or Regulation 104/76 specified in column 1 of the Schedule to these regulations, as read with any qualifying provision relating to that article in that column of the Schedule.

Offences related to marketing

3.—(1) A 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 £2,000.

(2) A person who affixes to a lot a label which to his knowledge falsely describes the characteristics, required by Regulation 103/76 or Regulation 104/76 to be marked on such a label, of any saltwater fish or shellfish in that lot shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(3) If an offence under paragraph (1) of this regulation committed by a body corporate is proved to have been committed with the consent or approval of any director, secretary or other similar officer of the body corporate, he, as well as the body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where the commission by any person of an offence under paragraph (1) of this regulation was due to the act or default of another person then, whether proceedings are taken against the first-mentioned person or not, that other person may be charged with, and convicted of, the offence, and shall on conviction be liable to the same punishment as that to which the first-mentioned person is, on conviction, liable.

(5) It shall be a defence for a person charged with an offence under paragraph (1) of this regulation to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(a) OJ No L20, 28.1.76, p. 35.
(c) OJ No L297, 9.11.85, p. 3.

(b) OJ No L356, 20.12.83, p. 6.
(d) OJ No L96, 11.4.86, p. 14.

Powers of authorised officers

4.—(1) For the purpose of enforcing regulation 3 of these regulations, an authorised officer of the Minister, on producing (if so required) a duly authenticated document showing his authority, may—

- (a) at all reasonable times enter and inspect any premises (other than premises used only as a dwelling) at which any activity regulated by Regulation 103/76 or Regulation 104/76 is, or is reasonably suspected of being, carried on;
- (b) examine fish, containers for fish and labels found on such premises;
- (c) carry out at such premises such other inspections or tests as may reasonably be necessary;
- (d) require any person not to remove or cause to be removed any fish from such premises for such a period as may be reasonably necessary for the purposes of his examination of it;
- (e) require any person at such premises to produce any documents which are in his possession or custody relating to the catching, landing, grading or marketing of any fish found on such premises; and
- (f) inspect and take copies of any such documents.

(2) An authorised officer entering any premises by virtue of paragraph (1) of this regulation may take with him to assist him in exercising his functions any other person and any equipment or materials.

(3) The provisions of paragraphs (1) and (2) of this regulation shall apply in relation to any land, vehicle or vessel as they apply in relation to premises.

(4) In this regulation “fish” means saltwater fish and shellfish.

Obstruction of officers

5. A person who—

- (a) intentionally obstructs an officer of the Minister exercising any of the powers conferred on him by regulation 4 of these regulations; or
- (b) fails without reasonable excuse to comply with a requirement properly imposed under these regulations by such an officer

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

Protection of officers

6. An officer of the Minister or a person assisting him by virtue of regulation 4(2) of these regulations shall not be liable in any civil or criminal proceedings for anything done by him in the purported exercise of the powers conferred by regulation 4 of these regulations if the court is satisfied that the act was done in good faith, that there were reasonable grounds for doing it and that it was done with reasonable skill and care.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 21st July 1986.



Michael Jopling,
Minister of Agriculture, Fisheries and Food.

Gray of Contin,
Minister of State, Scottish Office.

21st July 1986.

SCHEDULE

Regulation 2

SPECIFIED COMMUNITY PROVISIONS

Column 1	Column 2
Article of the Council Regulation	Subject matter
Article 2(1) of Regulation 103/76, read subject to article 2(2) of that Regulation	Saltwater fish from Community catches to be marketed for human consumption only if it complies with the provisions of Regulation 103/76
Article 11(1) of Regulation 103/76	Saltwater fish imported from third countries to be marketed for human consumption only if it complies with specified marketing standards and labelling requirements
Article 11(2) of Regulation 103/76	Saltwater fish landed from third country vessels and intended for human consumption to be put on the market subject to the provisions of Regulation 103/76 applicable to Community catches
Article 3(1) of Regulation 104/76, read subject to article 3(2) of that Regulation	Shellfish from Community catches to be marketed for human consumption only if it complies with the provisions of Regulation 104/76
Article 10(1) of Regulation 104/76	Shellfish coming from third countries to be released for human consumption only if it complies with specified marketing standards and labelling requirements
Article 10(2) of Regulation 104/76	Shellfish landed from third country vessels and intended for human consumption to be subject, when released on the market, to the provisions of Regulation 104/76 applicable to Community produce

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations make provisions for the enforcement throughout the United Kingdom of Community Regulations laying down common marketing standards and related rules as to marketing for certain species of sea fish, including shellfish. The regulations implement a Community obligation to take appropriate measures to penalize infringements of Community marketing rules for fishery products, imposed by article 4 of Council Regulation (EEC) No 3796/81 (OJ No L379, 31.12.81, p. 1).

The Council Regulations to be enforced under these regulations are—

- (a) Council Regulation (EEC) No 103/76, as amended by Council Regulation (EEC) No 3396/85, ("Regulation 103/76"), which concerns species of finned fish,
- (b) Council Regulation (EEC) No 104/76, as amended by Council Regulations (EEC) Nos 3575/83 and 3118/85 ("Regulation 104/76") which concerns species of shellfish.

Those Regulations prohibit the marketing for human consumption of sea fish except in compliance with the rules laid down therein. In summary, the rules require that fish must be marketed in lots each containing fish of the same species of uniform grade of freshness, size and presentation, determined in accordance with grading standards prescribed in Regulations 103/76 and 104/76, and bearing a label to show its grades (articles 2 and 4-8 of Regulation 103/76, and articles 3-7 of Regulation 104/76). Additional rules are prescribed in relation to fish imported from third countries (article 11(1) of Regulation 103/76, and article 10(1) of Regulation 104/76), while fish landed from third country vessels are subject to the rules applicable to Community catches (article 11(2) of Regulation 103/76, and article 10(2) of Regulation 104/76). In the case of herring and mackerel (which may be marketed in bulk) grading may be undertaken according to a sampling system (article 8a of Regulation 103/76).

These regulations make breaches of the prohibitions on marketing imposed by Regulations 103/76 and 104/76 offences for the purposes of United Kingdom law and specify penalties (regulation 3). The regulations confer powers of enforcement on authorised officers of the fisheries Ministers (regulation 4), penalize the obstruction of such officers in the exercise of those powers (regulation 5) and provide for the protection of such officers, acting properly, from challenge in the courts (regulation 6).

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