

1989 No. 837 (S.85)

FOOD

COMPOSITION

**The Tetrachloroethylene in Olive Oil (Scotland)
Regulations 1989**

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| <i>Made</i> - - - - | <i>11th May 1989</i> |
| <i>Laid before Parliament</i> | <i>24th May 1989</i> |
| <i>Coming into force</i> | <i>14th June 1989</i> |

The Secretary of State in exercise of the powers conferred on him by sections 4, 26(3), 56 and 56A of the Food and Drugs (Scotland) Act 1956(a) and of all other powers enabling him in that behalf, and after consultation in accordance with section 56(6) of the said Act with such organisations as appear to him to be representative of interests substantially affected by these Regulations, hereby makes the following Regulations:

Title and commencement

1. These Regulations may be cited as the Tetrachloroethylene in Olive Oil (Scotland) Regulations 1989 and shall come into force on 14th June 1989.

Interpretation

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

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

“the Commission Regulation” means Commission Regulation (EEC) No. 1860/88(b) establishing special marketing standards for olive oil;

“the Council Regulation” means Council Regulation No. 136/66/EEC(c) on the establishment of a common organisation of the market in oils and fats, as amended by Council Regulation (EEC) No. 1915/87(d);

“oil” means any of the descriptions of olive oils and olive-pomace oils referred to in Article 35 of the Council Regulation and described in the Annex to that Regulation;

“sell” includes offer or expose for sale or have in possession for sale, and “sale” and “sold” shall be construed accordingly.

(a) 1956 c.30; section 4(1) was amended by the European Communities Act 1972 (c.68), Schedule 4, paragraph 3(1); 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; section 56 was also amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraph 8 and 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) (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).

(b) OJ No. L166, 1.7.88, p.16.

(c) OJ No. 172, 30.9.66, p.3025/66 (OJ/SE 1965-66 p.221).

(d) OJ No. L183, 3.7.87, p.7.

Offences relating to tetrachloroethylene in olive oil

3.—(1) A person who contravenes Article 1 of the Commission Regulation (which prohibits the retail sale of oil with a tetrachloroethylene content of more than 0.1 milligram per kilogram) commits an offence under this regulation.

(2) A person guilty of an offence under this regulation 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.

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

Method of analysis

4.—(1) The method of analysis to be used to determine the tetrachloroethylene content of oil shall be that set out in Annex X to Commission Regulation (EEC) No. 1058/77(a) (concerning the characteristics of olive oil) and evidence of an analysis carried out by that method shall, where any other method is used in accordance with paragraph (2) below, be preferred to evidence of that other method.

(2) Until 31st October 1989 any other method of analysis may be used which–

- (a) is sufficiently accurate and precise to determine that the tetrachloroethylene content of oil does not exceed the specified content of 0.1 milligram per kilogram, and
- (b) before its use, has been communicated to the Commission by the United Kingdom authorities or, where appropriate, by any other Member State.

Application 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 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), (2) 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 by some other person);
- (e) section 46(2) (which relates to the conditions under which a warranty may be 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
11th May 1989

Sanderson of Bowden
Minister of State,
Scottish Office

(a) OJ No. L128, 24.5.77, p.6, as amended by Commission Regulation (EEC) No. 1858/88 (OJ No. L166, 1.7.88, p.10.)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Scotland only, make provision for the enforcement of Article 1 of Commission Regulation (EEC) No. 1860/88 on the establishment of special marketing standards for olive oil (OJ No. L166, 1.7.88, p.16). Article 1 of the Commission Regulation provides that olive oils and olive-pomace oils with a tetrachloroethylene content of more than 0.1 milligram per kilogram may not be offered for retail sale.

The Regulations also prescribe the method of analysis to be used in determining the tetrachloroethylene content as that set out in Commission Regulation (EEC) No. 1058/77 (OJ No. L128, 24.5.77, p.6) on the characteristics of olive oil, as amended by Commission Regulation (EEC) No. 1858/88 (OJ No. L166, 1.7.88, p.10). However, until 31st October 1989 other methods giving results compatible with that method may be used where those methods, before being used, have been communicated to the Commission by the Member States concerned.