
STATUTORY INSTRUMENTS

1998 No. 2424

FOOD

The Drinking Milk Regulations 1998

Made - - - - 29th September 1998

Laid before Parliament 7th October 1998

Coming into force - - 31st October 1998

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 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⁽¹⁾, 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 and commencement

1. These Regulations may be cited as the Drinking Milk Regulations 1998 and shall come into force on 31st October 1998.

Interpretation

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

“the Act” means the Food Safety Act 1990;

“the Council Regulation” means Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk⁽²⁾;

“food authority” does not include the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple);

“sell” includes possess for sale, and offer, expose or advertise for sale.

(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) OJ No. L351, 23.12.97, p.13.

Sale or delivery of milk and use of sales descriptions

3. No person shall sell or deliver milk, or use or omit to use a sales description for any product, in contravention of Article 2 of the Council Regulation (as read with Article 3 of that Regulation and, after 31st December 1998, as read also with Article 4 of that Regulation).

Importation of products from outside the European Community for sale as drinking milk

4. No person shall import into Great Britain from outside the European Community any product for sale as drinking milk in contravention of Article 5 of the Council Regulation.

Enforcement

5.—(1) Each food authority shall enforce and execute within its area the provisions of these Regulations.

(2) Each food authority shall give such assistance and information to any other food authority as that other food authority may reasonably require for the purpose of carrying out its duties under these Regulations.

Offences and penalty provision

6.—(1) If any person contravenes or fails to comply with regulation 3 or 4 of these Regulations, 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.

(2) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

Defence in relation to exports

7. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

- (a) that the product was intended for export to a country which has legislation analogous to these Regulations and that such product complies with that legislation; and
- (b) in the case of export to another Member State, that the legislation complies with the Council Regulation.

Application of provisions of Act

8. 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 a Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumptions that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence) as it applies for the purposes of section 8, 14 or 15;
- (e) section 30(8) (which relates to documentary evidence);
- (f) section 33 (obstruction etc. of officers);

- (g) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2);
- (h) section 36 (offences by bodies corporate);
- (i) section 44 (protection of officers acting in good faith).

Revocations

9. The Regulations specified in the Schedule to these Regulations are revoked to the extent specified in column 3 of that Schedule.

Amendments

10.—(1) In both the Milk and Dairies (General) Regulations 1959(3) and the Milk and Dairies (Scotland) Regulations 1990(4), in regulation 2(1) (interpretation), there shall be substituted for the definitions of “standardised whole milk” and “non-standardised whole milk” (which appear at the end of the definition of “milk”) the following definitions—

““standardised whole milk” and “non-standardised whole milk” have the meanings respectively given to them by Article 3(1)(b) of Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk;”.

(2) In both the Dairy Products (Hygiene) Regulations 1995(5) and the Dairy Products (Hygiene) (Scotland) Regulations 1995(6), in regulation 2(1) (interpretation), there shall be substituted for the definition of “drinking milk” the following definition—

““drinking milk”—

- (a) in relation to cows' milk, has the meaning given by Article 1(2)(b) of Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk; and
- (b) in relation to other milk, means milk intended for delivery as such to the ultimate consumer;”.

(3) In the Food Labelling Regulations 1996(7), in regulation 2(1) (interpretation), there shall be substituted—

- (a) in the definition of “raw milk”, for the words from “Article 3.1 of” to “as amended” the words “Article 3(1) of Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk”;
- (b) in the definitions of “semi-skimmed milk”, “skimmed milk” and “whole milk”, for the words from “Article 3.1 of” to the end in each case the words “Article 3(1) of Council Regulation (EC) No. 2597/97”.

29th September 1998

Nick Brown
Minister of Agriculture, Fisheries and Food

(3) S.I. 1959/277; the relevant amending instrument is S.I. 1992/3143.
(4) S.I. 1990/2507; the relevant amending instrument is S.I. 1992/3136.
(5) S.I. 1995/1086, to which there are amendments not relevant to these Regulations.
(6) S.I. 1995/1372, to which there are amendments not relevant to these Regulations.
(7) S.I. 1996/1499, to which there is an amendment not relevant to these Regulations.

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

Signed by authority of the Secretary of State for Health

25th September 1998

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

Signed by authority of the Secretary of State for Wales

25th September 1998

Jon Owen Jones
Parliamentary Under Secretary of State, Welsh
Office

25th September 1998

Sewel
Parliamentary Under Secretary of State, Scottish
Office

SCHEDULE

Regulation 9

REVOCATIONS

<i>Column 1</i> <i>Regulations revoked</i>	<i>Column 2</i> <i>Reference</i>	<i>Column 3</i> <i>Extent of revocation</i>
The Drinking Milk Regulations 1976.	S.I. 1976/1883 .	The whole Regulations.
The Drinking Milk (Scotland) Regulations 1976.	S.I. 1976/1888 .	The whole Regulations.
The Milk and Dairies (Revision of Penalties) Regulations 1982.	S.I. 1982/1703 .	In the Schedule, the reference to the Drinking Milk Regulations 1976.
The Milk and Dairies (Revision of Penalties) Regulations 1985.	S.I. 1985/68 .	The whole Regulations.
The Food Safety (Exports) Regulations 1991.	S.I. 1991/1476 .	In Schedule 1, Part I, the reference to the Drinking Milk Regulations 1976. In Schedule 2, the reference to the Drinking Milk (Scotland) Regulations 1976.
The Milk and Dairies (Standardisation and Importation) Regulations 1992.	S.I. 1992/3143 .	Regulation 2.
The Dairy Products (Hygiene) Regulations 1995.	S.I. 1995/1086 .	Regulation 24(2).
The Dairy Products (Hygiene) (Scotland) Regulations 1995.	S.I. 1995/1372 .	Regulation 24(3).

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

These Regulations, which apply to Great Britain, make provision for the enforcement and execution of Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for cows' drinking milk ("the Council Regulation").

These Regulations—

- (a) prohibit the sale or delivery of milk, or the use of or failure to use a sales description for any product, in contravention of the Council Regulation (regulation 3);
- (b) prohibit the importation from outside the European Community of a product for sale as drinking milk in contravention of the Council Regulation (regulation 4);

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- (c) specify food authorities as enforcement bodies (regulation 5) and create offences and prescribe a penalty (regulation 6);
- (d) provide a defence in relation to exports, in accordance with Articles 2 and 3 of Council Directive [89/397/EEC](#) (OJ No. L186, 30.6.89, p.23) on the official control of foodstuffs, as read with the ninth recital to that Directive (regulation 7);
- (e) incorporate specified provisions of the Food Safety Act 1990 (regulation 8); and
- (f) revoke the Regulations specified in the Schedule to the extent specified (regulation 9), and make consequential amendments (regulation 10).