
STATUTORY INSTRUMENTS

1992 No. 3143

FOOD

**The Milk and Dairies (Standardisation
and Importation) Regulations 1992**

Made - - - - *9th December 1992*
Laid before Parliament *10th December 1992*
Coming into force - - *1st January 1993*

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, in exercise of the powers conferred by sections 4(1), 6(4), 16(1) and (3), 17(1) and (2), 18(2)(a) and (b), 19, 26 and 48(1) of, and paragraph 4(b) of Schedule 1 to, the Food Safety Act 1990⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations after consultation in accordance with section 48(4) of the said Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations:—

Title and commencement

1. These Regulations may be cited as the Milk and Dairies (Standardisation and Importation) Regulations 1992 and shall come into force on 1st January 1993.

Amendment of the Drinking Milk Regulations 1976

2.—(1) The Drinking Milk Regulations 1976⁽²⁾ shall have effect subject to the following amendments—

- (a) in regulation 2(1) the definitions of “guideline figure”, “milk purveyor”, “milk year”, “sell by retail” and “sell wholesale” shall be deleted;
- (b) in regulation 4(b) the words “produced in the United Kingdom” shall be deleted;
- (c) in regulation 4(c) the remainder of the paragraph after the words “standardised whole milk” shall be deleted;
- (d) in regulation 5(1) after the words “laid down for”, there shall be inserted the words “standardised whole milk,”;
- (e) regulation 6 (labelling of standardised whole milk) shall be deleted;

(1) 1990 c. 16.

(2) S.I.1976/1883, to which there are amendments not relevant to these Regulations.

(f) regulation 7 (records of transactions in standardised whole milk) shall be deleted.

(2) In regulation 2(1) of the Drinking Milk Regulations 1976, the term “as amended” at the end of the sub-paragraph beginning ““milk”, “drinking milk”” shall be taken to include the amendment of Council Regulation (EEC) No.1411/71 effected by Council Regulation (EEC) No.2138/92(3).

Amendment of the Importation of Milk Regulations 1988

3.—(1) The Importation of Milk Regulations 1988(4) shall have effect subject to the following amendments.

(2) In regulation 2(1)—

- (a) in the definition of “authorised officer”, for the words “port health authority (or relevant local authority)” there shall be substituted the words “food authority”;
- (b) for the definition of “drinking milk” and the other definitions in the same sub-paragraph as that definition there shall be substituted the following definitions—

““drinking milk”, “semi-skimmed milk”, “skimmed milk”, “standardised whole milk” and “non-standardised whole milk” have the meanings respectively given to them by Council Regulation (EEC) No.1411/71 as amended(5) laying down additional rules on the common market organisation in milk and milk products for drinking milk;”;

- (c) the definitions of “designated place”, “export”, “guideline figure”, “milk year”, “officer of Customs and Excise”, “place of entry”, “port health authority”, “port health district”, “separated” and “working day” shall be deleted;
- (d) in the definition of “milk” the words “and separated milk” shall be deleted;
- (e) in the definition of “specified drinking milk”, in sub-paragraph (c) all the words after “standardised whole milk” shall be deleted and after it there shall be inserted a new sub-paragraph “(d) non-standardised whole milk”;
- (f) for the definition of “the 1986 Regulations” there shall be substituted the following definition—

““the 1988 Regulations” means the Milk and Dairies (Semi-skimmed and Skimmed Milk) (Heat Treatment and Labelling) Regulations 1988(6)

- (g) there shall be inserted in the respective appropriate places the following definitions—

““raw milk” means milk which has not been heated beyond 40 degs C or undergone any treatment that has an equivalent effect and “raw” in relation to cream shall be construed accordingly

“thermised milk” means raw milk which has been heated for at least 15 seconds at a temperature between 57 degs C and 68 degs C and after such treatment shows a positive reaction to the phosphatase test, as described in Part IV of Schedule 5 to the Milk (Special Designation) Regulations 1989(7), and for the purposes of any such test milk shall be treated as showing a positive reaction if the sample of that milk taken for that test gives a reading of greater than 10 µg of *p*-nitrophenol/ml of milk;”.

(3) In regulation 4(1)—

(3) OJ No. L214, 30.7.92, p.6.

(4) S.I. 1988/1803, to which there are amendments not relevant to these Regulations.

(5) OJ No. L148, 3.7.71, p.4 (OJ/SE 1971 II, p.412), relevant amending instruments are Act of Accession at OJ No. L73, 1.1.73, Council Regulation (EEC) No. 566/76 (OJ No. L67, 15.3.76, p.23) with Corrigendum at OJ No. L107, 24.4.76, p.22, Commission Regulation (EEC) No. 222/88 (OJ No. L28, 1.2.88, p.1) and Council Regulation (EEC) No. 2138/92 (OJ No. L214, 30.7.92, p.6).

(6) S.I. 1988/2206, to which there are amendments not relevant to these Regulations.

(7) S.I. 1989/2383, to which there are amendments not relevant to these Regulations.

- (a) in sub-paragraph (a) after the words “specified drinking milk,” there shall be inserted the words “raw milk, thermised milk,”;
- (b) in sub-paragraph (b) prior to the words “has been pasteurised,” there shall be inserted the words “unless it is raw milk, thermised milk or raw cream,”;
- (c) sub-paragraph (f) shall be deleted except for the word “and” at the end.
- (4) Regulation 5 (authorised places of entry) shall be deleted.
- (5) Regulation 6 (importation procedure) shall be deleted.
- (6) In regulation 8 (powers of authorised officers)—
 - (a) paragraph (1) shall be deleted;
 - (b) for paragraph (2) there shall be substituted the following paragraph—

“(2) The powers under these Regulations of an authorised officer of a food authority shall be exercisable only in relation to milk which is imported into England and Wales by entry into its area, or milk which is or has been in that area.”.
- (7) Regulation 9 (duties of authorised officers) shall be deleted.
- (8) Regulation 10(3) (offences) shall be deleted.
- (9) Schedule 2 shall be deleted.
- (10) In Schedule 3—
 - (a) paragraph 3(a) shall be deleted;
 - (b) in paragraph 4(a) and 4(b) after the words “as regards” in each place that they occur there shall be inserted the words “raw milk, thermised milk,”;
 - (c) in paragraph 6(1), (2) and (3) for the words “the 1986 Regulations” in each place that they occur there shall be substituted the words “the 1988 Regulations”.

Amendment of the Milk and Dairies (General) Regulations 1959

4.—(1) The Milk and Dairies (General Regulations) 1959(8) shall have effect subject to the following amendment.

(2) For the definition of “milk” in regulation 2(1) there shall be substituted the following definition—

““milk” means cows' milk intended for sale or sold for human consumption or intended for manufacture into products for sale for human consumption, and includes cream and skimmed milk, as well as standardised whole milk and non-standardised whole milk, and “standardised whole milk” and “non-standardised whole milk” have the meanings respectively assigned to them by Council Regulation (EEC) No. 1411/71 as amended(9);”.

Amendment of the Milk (Special Designation) Regulations 1989

5.—(1) The Milk (Special Designation) Regulations 1989(10) shall have effect subject to the following amendments.

(2) In regulation 2(1)—

(a) for the definition of “milk” there shall be substituted the following definition—

(8) S.I. 1959/277, to which there are amendments not relevant to these Regulations.

(9) OJ No. L148, 3.7.71, p.4 (OJ/SE 1971 II, p.412), relevant amending instruments are Act of Accession at OJ No. L73, 1.1.73, Council Regulation (EEC) No. 566/76 (OJ No. L67, 15.3.76, p.23) with Corrigendum at OJ No. L107, 24.4.76, p.22, Commission Regulation (EEC) No. 222/88 (OJ No. L28, 1.2.88, p.1) and Council Regulation (EEC) No. 2138/92 (OJ No. L214, 30.7.92, p.6).

(10) S.I. 1989/2383, to which there are amendments not relevant to these Regulations.

““milk” means cows' raw milk, cows' standardised whole milk and cows' non-standardised whole milk and “standardised whole milk” and “non-standardised whole milk” have the meanings respectively assigned to them by Council Regulation (EEC) No.1411/71 as amended;”;

(b) for the definition of “raw milk” there shall be substituted the following definition—

““raw milk” means whole milk which has not been treated by heat;”.

(3) In Schedule 6—

(a) in paragraph 2(1) after the words “The name of the milk shall be “Milk”” there shall be inserted the words “, or “Whole Milk””;

(b) in paragraph 2(2) after the words “word “Milk”” there shall be inserted the words “or, as the case may be, the words “Whole Milk””;

(c) after paragraph 2(2) there shall be inserted the following paragraph—

“(3) The name shall in addition comply with the labelling requirements of Article 3(2) of Council Regulation (EEC) No. 1411/71 as amended”.

Amendment of the Milk and Dairies (Milk Bottle Caps) (Colour) Regulations 1976

6.—(1) The Milk and Dairies (Milk Bottle Caps) (Colour) Regulations 1976(11) shall have effect subject to the following amendment.

(2) In regulation 2(1) in the definition of “milk” after the words “include cream,”, there shall be inserted the words “standardised whole milk,”, and after the words “butter milk” there shall be inserted the words “, and “standardised whole milk” has the meaning assigned to it by Council Regulation (EEC) No.1411/71 as amended”.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 7th December 1992.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health

Department of Health
8th December 1992

Tom Sackville
Parliamentary Under Secretary of State,

9th December 1992

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of Milk and Dairies Regulations in order to implement certain European Community requirements.

They provide for the implementation of Council Regulation (EEC) No. 2138/92 amending Council Regulation (EEC) No. 1411/71 as amended on the ending of the arrangements by which Member States have to choose between allowing the sale of standardised whole milk or non-standardised whole milk, but not both.

Under Article 3(1)(b) of Council Regulation (EEC) No. 1411/71 as amended, “whole milk” means milk which has been subjected to at least one heat treatment or authorised treatment of equivalent effect by a milk processor, and with respect to fat content meets one of the following requirements:

- standardised whole milk, i.e. milk with a fat content of at least 3.5 %.
- non-standardised whole milk, i.e. milk with a fat content that has not been altered since the milking stage either by the addition or separation of milk fats or by mixture with milk, the natural fat content of which has been altered. However, the fat content may not be less than 3.5 %.

Under Article 3(2) of Council Regulation (EEC) No. 1411/71 as amended, in relation to the sale of whole milk, the name of the whole milk has to be followed by a further description to inform the purchaser whether the product has undergone the process of standardisation or not in all cases where omission of such information could create confusion in the mind of the purchaser.

To give effect to the above, the Regulations make the following principal changes—

- (a) restrictions on import and sale of standardised whole milk are removed from the Drinking Milk Regulations 1976 (regulation 2) and the Importation of Milk Regulations 1988 (regulation 3(2)(b), (c), (d), (e) and (f) and 3(10)(a) and (c)), the Milk and Dairies (General) Regulations 1959 (regulation 4(2)), the Milk (Special Designation) Regulations 1989 (regulation 5(2)) and the Milk and Dairies (Milk Bottle Caps) (Colour) Regulations 1976 (regulation 6), and consequential minor amendments are made to them;
- (b) in relation to the sale of whole milk, provision is made for labelling which includes standardised whole milk in the Milk (Special Designation) Regulations 1989 (regulation 5(3)).

Provision is made in the Regulations for the implementation in part of Council Directive (EEC) No. 89/662 as amended (OJ No. L395, 30.12.89, p.13) on veterinary checks in intra-Community trade by removing part of entry checks on imports of milk coming from other Member States in the Importation of Milk Regulations 1988 (regulation 3(2)(a) and (c), 3(3)(c) and 3(4)-3(9)).

The Regulations also provide for the removal of the ban on imports of raw cows' milk and thermised cows' milk (milk subjected to heat treatment below pasteurisation temperature) coming from other Member States in the Importation of Milk Regulations 1988 (regulation 3(2)(g), 3(3)(a) and (b) and 3(10)(b)).