STATUTORY INSTRUMENTS

1994 No. 1933

The Medicines (Monitoring of Advertising) Regulations 1994

Interpretation and application

2.—(1) In these Regulations–

"the 1968 Act" means the Medicines Act 1968(**1**);

"the 1990 Act" means the Broadcasting Act 1990(**2**);

"the Advertising Regulations" means the Medicines (Advertising) Regulations 1994(**3**);

"the Commission" means the Independent Television Commission established by section 1(1) of the 1990 Act;

"complaints authority" means the Commission, the Radio Authority or the Welsh Authority, as the case may be;

"court", in relation to England and Wales and Northern Ireland, means the High Court, and, in relation to Scotland, means the Court of Session;

"publication" in relation to an advertisement means the dissemination of that advertisement, whether orally, in writing, by means of television or radio broadcast, or in any other way, and "publish" shall be construed accordingly;

"Radio Authority" means the authority established by section 83(1) of the 1990 Act;

"the Welsh Authority" has the same meaning as in section 56(1) of the 1990 Act;

and expressions used in these Regulations which are used in any provision of the 1968 Act have, subject to paragraphs (2) and (3) and unless the context requires otherwise, the meaning which they bear in the 1968 Act.

(2) For the purposes of these Regulations, "advertisement" has the meaning assigned to it by section 92 of the 1968 Act, except that–

(a) provided that it makes no product claim, reference material, a factual, informative statement or announcement, a trade catalogue or a price list shall not be taken to be an advertisement, and

(b) an advertisement includes a representation,

and for the purposes of this paragraph, "representation" has the meaning assigned to it by section 92 of the 1968 Act, except that it does not include the making of a factual, informative statement or announcement which includes no product claim.

(3) In these Regulations "the Health Ministers" means the Ministers specified in section 1(1)(a) of the 1968 Act(**4**) and in the case of anything falling to be done by them under these Regulations means any one of them acting alone or any two or more of them acting jointly.

(**1**) 1968 c. 67.
(**2**) 1990 c. 42.
(**3**) S.I.1994/1932.
(**4**) Section 1(1)(a) was amended by article 2(2) of, and Schedule 1 to, the Transfer of Functions (Wales) Order 1969 (S.I. 1969/388); in respect of Northern Ireland,*see*section 40 of, and Schedule 5 to, the Northern Ireland Constitution Act 1973 (c. 36), and section 1(3) of, and paragraph 2(1))(b) of Schedule 1 to, the Northern Ireland Act 1974 (c. 28).

(4) In the application of these Regulations to Scotland, for references to an injunction or an interlocutory injunction there shall be substituted references to an interdict or an interim interdict respectively.

(5) In these Regulations, unless the context requires otherwise, a reference to a regulation shall be construed as a reference to that regulation contained in these Regulations, and any reference in a regulation to a numbered paragraph shall be construed as a reference to the paragraph of that regulation bearing that number.

(6) These Regulations apply only to an advertisement for a product, substance or article for human use which is–

(a) a medicinal product to which Chapters II to V of the 1965 Directive(**5**) apply,

(b) a substance or article–

(i) to which Chapters II to V of the 1965 Directive(**5**) apply, and

(ii) specified in an order made under section 104 or section 105 of the 1968 Act, or in regulations made under section 2(2) of the European Communities Act 1972, which direct that Part VI or any section of that Part of the 1968 Act has effect in relation to such substance or article as that Part has effect in relation to medicinal products within the meaning of the 1968 Act, or

(c) a homoeopathic medicinal product(**6**) to which Council Directive 92/73/EEC(**7**) applies which is marketed in the United Kingdom under a certificate of registration(**8**) in accordance with the provisions of the Medicines (Homoeopathic Medicinal Products for Human Use)Regulations 1994(**9**),

but do not apply to an advertisement for a homoeopathic medicinal product in respect of which there is in force a product licence being a licence of right.

(**5**) The definition of "the 1965 Directive" in section 132(1) of the 1968 Act was amended by regulation 9 of S.I. 1994/ 276.
(**5**) The definition of "the 1965 Directive" in section 132(1) of the 1968 Act was amended by regulation 9 of S.I. 1994/ 276.
(**6**) The definition of "homoeopathic medicinal product" was inserted into section 7 of the 1968 Act by regulation 3(4) of S.I. 1994/276.
(**7**) OJNo. L297, 13.10.1992, p.8.
(**8**) The definition of "certificate of registration" was inserted into section 7 of the 1968 Act by regulation 3(4) of S.I. 1994/276.
(**9**) S.I. 1994/105, as amended by S.I. 1994/899.