
STATUTORY INSTRUMENTS

1983 No. 148 (N.I. 2)

NORTHERN IRELAND

The Milk (Northern Ireland) Order 1983

Laid before Parliament in draft

Made 11th February 1983

Coming into Operation 12th May 1983

ARRANGEMENT OF ORDER

Article

Introductory

1. Title and commencement.
2. Interpretation.

Licensing of production and sale of milk

3. General principles.
4. Licences.
5. Issue and revocation of licences.

Miscellaneous

6. Sale by retail, etc.
7. Handling and transporting.
8. Inspection of premises and examination of cows and milk.

Supplementary

9. Regulations.
10. Offences.
11. Consequential amendments and repeals.

SCHEDULES:

Schedule 1—Consequential amendments.

Schedule 2—Repeals.

At the Court at Buckingham Palace, the 11th day of February 1983

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Milk (Northern Ireland) Order 1983.

(2) This Order shall come into operation on the expiration of the period of three months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b), except section 20 (2) and (3), shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“catering business” means the business or undertaking (whether or not carried on for profit) of an inn, public house, hotel, restaurant, café, buffet, coffee-stall, snack bar, milk bar or other premises or place of refreshment open to the public, or of any club, boarding-house, guest house, refreshment contractor or canteen and includes a mobile canteen or other vehicle or stall from which refreshments are served to the public;

“contravention” in relation to any provision of this Order or to any condition applicable or prescribed or direction given under this Order, includes a failure to comply with that provision, condition or direction (as the case may be);

“the Department” means the Department of Agriculture;

“licence” means a licence issued by the Department under this Order;

“milk” means cows' milk;

“prescribed” means prescribed by regulations made by the Department under this Order;

“sale by retail” includes a sale to a catering business;

“sell” includes offer or expose for sale.

(3) For the purposes of section 42 of the Northern Ireland Constitution Act 1973 (c) (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

Licensing of production and sale of milk

General principles

3.—(1) Subject to this Article and Article 4, a person shall not, either by himself or by any servant or agent, sell any milk except under the authority of and in accordance with the terms of a licence.

(a) 1974 c. 28.

(b) 1954 c. 33 (N.I.).

(c) 1973 c. 36.

(2) Subject to this Article and Articles 4 and 6, the Department shall by licence authorise the sale, offer or exposure for sale, of milk in accordance with the terms of the licence.

(3) Without prejudice to paragraph (1), a person shall not purport to sell as being in accordance with the terms of a licence any milk of a quality inferior to that authorised to be sold by licence.

(4) This Article and Article 4 shall not apply to sales of milk—

(a) by a producer to his servants, or

(b) by a catering business where the milk is consumed on the premises.

Licences

4.—(1) Licences shall be of the following classes—

(a) licences (to be called “farm bottling licences” or such other title as may be prescribed) for—

(i) the production and sale of milk which is of a description in relation to which a designation is prescribed under the succeeding provisions of this Order and which complies with any prescribed requirements as to its production, including requirements as to its bottling or other packaging on such premises as may be prescribed; and

(ii) the production of milk which is intended for use in the making of cream for sale and which complies with such requirements as to its production as may be prescribed; and

(iii) the production and, subject to Article 6, the sale of milk which is surplus to that required for the production of milk such as is described in head (i) or of cream, and which complies with such standards as may be prescribed;

(b) licences (to be called “milk licences”) for the production and, subject to Article 6, the sale of milk, other than milk such as is described in subparagraph (a), which—

(i) is produced from cows which are healthy and clean; and

(ii) shall comply with such standards of quality as may be prescribed;

(c) licences (to be called “distributors’ licences”) for the purchase and, subject to Article 6, the re-sale of milk whether by wholesale or retail.

(2) A licence granted under this Order shall be in such form and subject to such conditions as may be prescribed.

(3) It shall be the duty of the person to whom a licence has been granted under this Order to comply with the terms of the licence and with any conditions applicable or prescribed in respect of it and with such directions as may be given by or on behalf of the Department with respect to—

(a) the cows from which the milk is produced;

(b) the premises at which the milk is produced; or

(c) the methods of treatment and handling of milk.

(4) The holder of a licence shall keep such records and furnish such returns as the Department may prescribe for the purposes of Article 3 and this Article and shall permit those records to be inspected at all reasonable times and extracts to be taken from those records by any authorised officer of the Department.

Issue and revocation of licences

5.—(1) An application for a licence shall be in such form as the Department may determine.

(2) The Department on receiving an application for a licence may before issuing a licence cause an inspection to be made by an authorised officer of the premises or, in the case of a licence other than a distributor's licence, the herd proposed to be used for the purposes of the trade or business in respect of which the application is made.

(3) An application duly made for the issue of a licence may be refused on the grounds that—

- (a) the applicant is at the time a former licence holder whose licence has been revoked or proposes to carry on business for or on behalf of, or at premises still owned or occupied by, any such former licence holder;
- (b) the applicant is a person who has been convicted of an offence under this Order in respect of milk, or under the Food and Drugs Act (Northern Ireland) 1958 (a) or the Public Health Acts (Northern Ireland) 1878 to 1967; or
- (c) the Department is not satisfied that the premises proposed to be used for the purposes of the trade or business comply with such requirements as shall be prescribed.

(4) A licence may be revoked or suspended by the Department on any ground on which the Department could have refused to grant the licence, or by reason of the non-compliance of the holder of the licence with the terms of the licence or the conditions applicable or prescribed in respect of the licence or with any directions given under this Order.

(5) The holder of a licence revoked or suspended by the Department under this Article may within twenty-eight days of the posting by the Department of a letter duly addressed to him and sent by registered post or by the recorded delivery service informing him of the suspension or revocation serve on the Department in accordance with county court rules a notice of appeal to the county court against the suspension or revocation as the case may be, and the appeal shall be heard and determined by the county court for the county court division in which the holder resides.

(6) A licence shall, unless suspended or revoked or surrendered by the licence holder, remain in force until such date next after the date on which it is granted, as shall be prescribed, but shall be renewable annually or at such longer periods as may be prescribed and the provisions of this Order shall apply to the renewal of a licence as they apply to the grant of a licence.

Miscellaneous

Sale by retail, etc.

6.—(1) Provision may be made by regulations for prescribing, in relation to milk of any description which complies with such requirements (including requirements relating to origin, treatment, handling and packaging) as may be prescribed, such designation as the Department considers appropriate.

(2) Subject to the succeeding provisions of this Article, no person shall, either by himself or by any servant or agent,—

- (a) sell by retail for the purpose of human consumption; or
- (b) use, or have in his possession for use, for the purposes of a catering business,

(a) 1958 c. 27 (N.I.).

any milk, unless the milk is of a description in relation to which a designation has been prescribed under paragraph (1) and complies with the requirements prescribed for milk of that designation.

(3) For the purposes of this Article, milk which is not expressly sold for purposes other than human consumption shall, unless the contrary is proved, be deemed to have been sold for the purpose of human consumption.

(4) Where the Department has reason to believe that any milk is infected with any disease communicable to human beings, the Department may, without prejudice to any other provision of this Order, direct that such milk shall not be sold or shall be sold only after such treatment as the Department may direct.

(5) The Department may—

(a) authorise in writing the sale by retail of milk produced by the holder of a milk licence in any area where it is satisfied that no milk of a designation prescribed under paragraph (1) is available; and

(b) impose conditions subject to which any such sale by retail may be made.

(6) This Article shall not apply to sales of milk by a producer to his servants.

Handling and transporting

7. The Department may make such regulations as appear to the Department to be necessary for prescribing requirements to be observed in handling and transporting milk.

Inspection of premises and examination of cows and milk

8.—(1) Any officer of the Department authorised in that behalf by the Department may—

(a) enter and inspect at any reasonable time, and on production of his authority, any land or premises on which cows are kept for the production of milk for sale or which he has reason to believe are used by any person in connection with the business of that person as a producer or distributor of milk;

(b) examine any cows kept, or milk found, on any such land or premises, or any equipment used there in connection with milk;

(c) inspect or examine any milk in the course of its distribution by any person under the authority of a producer's licence or a distributor's licence;

(d) take without payment, for the purposes of examination, and examine reasonable samples of any milk he is entitled to inspect or examine under this Article.

(2) On any prosecution for an offence under this Order in relation to milk, the production of a certificate purporting to be signed by the person to whom any sample of milk taken under this Article has been submitted for examination shall be sufficient evidence of the facts stated in the certificate unless the defendant shall have given to the prosecutor at least three days' previous notice in writing that he requires that that person shall be called as a witness.

Supplementary

Regulations

9.—(1) The Department may make regulations prescribing anything which is to be prescribed, and providing for any matter in regard to which regulations may be made, under this Order, and generally for carrying this Order into effect.

(2) Regulations such as are described in section 22 (2A) of the Food and Drugs Act (Northern Ireland) 1958 shall be made with the concurrence of the Department of Health and Social Services.

(3) Regulations under this Order shall be subject to negative resolution.

Offences

10.—(1) Any person who—

- (a) acts in contravention of Article 3, 4 or 6 or any directions given or conditions applicable or prescribed under Article 4 or any conditions imposed under Article 6;
- (b) fails to comply with any regulations made under Article 7; or
- (c) obstructs or impedes an authorised officer in the exercise of his powers under Article 8,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding in the case of a first offence £20, and in the case of a second or any subsequent offence £50.

(2) Any person who—

- (a) in connection with an application for the issue of a licence makes any statement or furnishes any information which to his knowledge is in any material respect false or misleading; or
- (b) forges or fraudulently alters or uses, or permits to be fraudulently altered or used, any licence or other document issued under this Order,

shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £100, or to both.

(3) A warranty or invoice shall be available as a defence in a prosecution for an offence under this Act in any case where a warranty or invoice would be so available if the prosecution had been taken under the Food and Drugs Act (Northern Ireland) 1958 in respect of the sale of an article of food, and sections 52 (omitting subsection (2) (c)) and 53 (omitting subsection (1)) shall apply accordingly.

(4) When any offence under this Order committed by a body corporate is proved to have been committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary, or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Consequential amendments and repeals

11.—(1) The enactments specified in Schedule 1 shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Order.

(2) The enactments specified in Schedule 2 are hereby repealed to the extent shown in column 3 of that Schedule.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULES

Article 11 (1).

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

The Food and Drugs Act (Northern Ireland) 1958 (c. 27)

1. In section 22 (2A)—
 - (a) for “Milk Acts (Northern Ireland) 1950 and 1963” substitute “Milk (Northern Ireland) Order 1983”;
 - (b) for “those Acts” substitute “that Order”.

The Marketing of Milk Products Act (Northern Ireland) 1958 (c. 31)

2. In section 16—
 - (a) for the definition of “farm bottling licence” substitute the following definition—
 “‘farm bottling licence’ means a licence issued under Article 4 (1) (a) of the Milk (Northern Ireland) Order 1983;”;
 - (b) for the definition of “pasteurised milk” substitute the following definition—
 “‘pasteurised milk’ means milk which has been pasteurised in accordance with regulations under the Milk (Northern Ireland) Order 1983 and in relation to which any such regulations which are applicable to milk so pasteurised have been complied with;”.

*The Control of Food Premises (Northern Ireland) Order 1979
(S.I. 1979/1710 (N.I. 17))*

3. In Article 8 (a), for “Milk Acts (Northern Ireland) 1950 and 1963” substitute “Milk (Northern Ireland) Order 1983”.

*The Weights and Measures (Northern Ireland) Order 1981
(S.I. 1981/231 (N.I. 10))*

4. In Article 26 (3), for “Milk Acts (Northern Ireland) 1950 and 1963” substitute “Milk (Northern Ireland) Order 1983”.

Article 11 (2).

SCHEDULE 2

REPEALS

Chapter	Short Title	Extent of Repeal
1950 c. 31.	The Milk Act (Northern Ireland) 1950.	The whole Act.
1963 c. 11.	The Milk (Amendment) Act (Northern Ireland) 1963.	The whole Act.
1967 c. 15.	The Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1967.	Sections 9 to 11. In section 15, subsection (2). In section 20, subsection (3).
1967 c. 29.	The Increase of Fines Act (Northern Ireland) 1967.	In Part I of the Schedule the entries relating to the Milk Act (Northern Ireland) 1950.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order consolidates the Milk Acts (Northern Ireland) 1950 and 1963.

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