

1988 No. 420**MILK****Importation of Milk Regulations (Northern Ireland) 1988**

Made *1st December 1988*

Coming into operation *1st January 1989*

The Department of Agriculture, in exercise of the powers conferred on it by section 1 of the Importation of Milk Act 1983(a) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Importation of Milk Regulations (Northern Ireland) 1988 and shall come into operation on 1st January 1989.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(b) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations—

“authorised officer” means an officer of any district council approved for the time being for the purposes of these Regulations by the Department, or any person authorised by the Department to act for the purposes of these Regulations;

“bulk milk” means milk other than specified drinking milk or cream;

“consignment” means the total amount of milk to which a single certificate (as described in regulation 4(1)(a)(iv)) relates;

“Council Directive” means Council Directive 85/397/EEC on health and animal health problems affecting intra-Community trade in heat-treated milk(c);

“cream” has the same meaning as it has for the purposes of the Marketing of Milk Products Regulations (Northern Ireland) 1966(d);

“the Department” means the Department of Agriculture for Northern Ireland;

“designated place” means any place designated by an authorised officer;

(a) 1983 c. 37

(b) 1954 c. 33 (N.I.) as amended by 1972 c. 9 (N.I.) s. 149 and Sch. 8

(c) O.J. No. L226, 24.8.85, p. 13

(d) S.R. & O. (N.I.) 1966 No. 204; the relevant amending Regulations are S.R. 1981 No. 233 and S.R. 1983 No. 336

- “drinking milk”, “semi-skimmed milk”, “skimmed milk” and “standardised whole milk” have the meanings respectively assigned to them by Council Regulation (EEC) No. 1411/71 laying down additional rules on the common organisation of the market in milk and milk products for products falling within tariff heading No. 04.01(a);
- “export” means remove to a place outside the United Kingdom;
- “guideline figure” means the guideline figure as to fat content of standardised whole milk fixed by the Council of the European Economic Community in accordance with Article 3.7 of Council Regulation (EEC) No. 1411/71 in respect of the United Kingdom for each milk year;
- “human consumption”, except for the purposes of regulation 3(2), includes the preparation of food for human consumption;
- “importer”, in relation to imported milk, includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of the milk or in any way entitled to the custody or control of it;
- “milk” means cows’ milk and includes cream and separated milk but not dried or condensed milk;
- “milk-based drink” and “raw milk” have the same meanings as they have in the Milk Regulations (Northern Ireland) 1987(b);
- “milk year” means the year or other period for milk and milk products specified by the Council of the European Economic Community in Article 2 of Council Regulation (EEC) No. 804/68 on the common organisation of the market in milk and milk products(c) or otherwise(d);
- “officer of Customs and Excise” includes any person acting under the authority of the Commissioners of Customs and Excise;
- “place of entry” means a port, aerodrome or other place of entry;
- “pre-packaged milk” means specified drinking milk and any other milk ready for delivery to the ultimate consumer;
- “processing” includes the heat treatment of milk or the manufacture of products;
- “separated” in relation to milk, includes skimmed;
- “specified drinking milk” means the following categories of drinking milk—
- (a) semi-skimmed milk;
 - (b) skimmed milk;

(a) O.J. No. L148, 3.7.71, p. 4; the relevant amending instrument is Council Regulation (EEC) No. 566/76 (O.J. No. L67, 15.3.76, p. 23 Corrigendum at O.J. No. L107, 24.4.76, p. 22)

(b) S.R. 1987 No. 229

(c) O.J. No. L148, 28.6.68, p. 13. Article 2 specifies that the milk year shall begin on 1st April and end on 31st March of the following year

(d) Council Regulation (EEC) No. 1060/88 (O.J. L104, 23.4.88, p. 5) extending for the second time the 1987/88 marketing year in the milk and beef and veal sectors specifies that the 1988/89 milk year begins on 1st June 1988

(c) standardised whole milk having a fat content of not less than the guideline figure fixed for the milk year during which such standardised whole milk is imported into Northern Ireland;

“ultimate consumer” means any person who buys milk otherwise than for the purpose of resale or use in the manufacture of milk products for sale;

“working day” means a day which is not a public holiday, Saturday or Sunday.

(3) For the purposes of these Regulations (other than the definitions of specified drinking milk and bulk milk), milk-based drink, but no other food containing milk, shall be deemed to be milk.

Prohibition on importation

3.—(1) Subject to regulation 4, a person shall not import into Northern Ireland milk intended by him for human consumption.

(2) For the purposes of these Regulations milk imported into Northern Ireland shall be presumed, until the contrary is proved, to be intended by the importer for human consumption.

Exceptions to prohibition on importation

4.—(1) The prohibition on importation in regulation 3 shall not apply in respect of—

(a) milk imported into Northern Ireland which—

- (i) is specified drinking milk, cream, milk-based drink or bulk milk;
- (ii) has been pasteurised, sterilised or heat treated by the ultra high temperature method as specified in Schedule 1;
- (iii) has been produced in, and is imported from, a Member State of the European Economic Community;
- (iv) is accompanied by, and complies with, such certificate as the Department may from time to time require by notice published in the Belfast Gazette in relation to milk in general or milk of such description as may be specified in the notice;
- (v) is neither milk which is unfit for human consumption nor milk which has been rendered injurious to human health by addition of any substance as an ingredient, by abstraction of any constituent or by subjection to any other process or treatment;
- (vi) is imported through an authorised place of entry; and
- (vii) in the case of pasteurised milk, is imported as pre-packaged milk or in a tanker which has been sealed by means of a watertight closure;
- (viii) in the case of sterilised milk is imported in the hermetically sealed container in which it was sterilised;
- (ix) in the case of milk which has been heat-treated by the ultra high temperature method, is imported in the opaque containers in which it was packaged aseptically immediately after heat-treatment; or

(b) raw milk imported into Northern Ireland from the Republic of Ireland where the Department is satisfied that such milk or any semi-skimmed or skimmed milk derived from it will not be used for sale for direct consumption as liquid milk or cream.

(2) In determining for the purposes of this regulation whether particular milk is injurious to human health, regard shall be had not only to the probable effect of that particular milk on the health of a person consuming it, but also to the probable cumulative effect of milk of substantially the same composition on the health of a person consuming such milk in ordinary quantities.

Authorised places of entry

5.—(1) The Department may by notice published in the Belfast Gazette designate a place of entry as an authorised place of entry either—

(a) generally; or

(b) specially, in relation to a description of milk specified in the notice.

(2) The Department may also, by authorisation in writing, designate a place of entry as an authorised place of entry for a consignment of milk specified in the authorisation.

Importation procedure

6.—(1) A person shall not import any milk into Northern Ireland except in accordance with the procedure set out in Schedule 2.

(2) If any person imports any milk into Northern Ireland otherwise than in accordance with the procedure set out in Schedule 2 the Department may cause that milk to be destroyed or disposed of by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom.

(3) The provisions of this regulation shall not apply to raw milk imported into Northern Ireland from the Republic of Ireland in accordance with regulation 4(1)(b).

Application of other enactments relating to imported milk and milk brought to Northern Ireland from Great Britain

7.—(1) The provisions referred to in Schedule 3 shall be applied, disapplied or modified (as the case may be) in the manner prescribed in that Schedule in relation to—

(a) imported milk; and

(b) milk brought to Northern Ireland from Great Britain which satisfies the requirements set out in paragraph (2).

(2) The requirements mentioned in paragraph (1)(b) are that the milk is whole milk, semi-skimmed milk, skimmed milk, cream or milk-based drink and the milk—

(a) has been produced in Great Britain;

(b) has been subjected to a pasteurisation or sterilisation process or to treatment by the ultra high temperature method;

(c) if in retail containers has been packaged and labelled;

(d) if stored, has been stored; and

(e) has been transported while in Great Britain in accordance with legislation having effect for the time being in Great Britain.

(3) In this regulation "whole milk" has the same meaning as it has in the Milk Regulations (Northern Ireland) 1987.

Powers of authorised officers

8.—(1) The powers under these Regulations of an authorised officer who is an officer of a district council shall be exercisable only in relation to milk which is imported into Northern Ireland by entry into the district of which that council is the district council, or milk which is or has been in that district.

(2) An authorised officer may, on production if so required of his authority, enter and remain on any premises (other than domestic premises) upon which he reasonably believes imported milk to be situated, at all reasonable hours for any purpose connected with the execution of these Regulations.

Duties of authorised officers

9.—(1) In carrying out any examination under paragraph 2 or 3 of Schedule 2, the authorised officer shall take all reasonable steps—

- (a) to ensure that the transport of the consignment and its placing on the market is not unduly delayed, and
- (b) to avoid causing any delays that might adversely affect the quality of the milk in the consignment.

(2) Where notice is given to an importer under paragraph 3(2) of Schedule 2 requiring the destruction or disposal of a consignment, the authorised officer shall make an endorsement on the certificate accompanying the consignment as required by regulation 4(1)(a)(iv) so as to indicate clearly the requirement under the notice.

(3) An endorsement made under paragraph (2) may at any time be deleted or amended by an authorised officer and it shall be so deleted if the notice is rescinded, under paragraph 4(7)(b) of Schedule 2, or if a court of summary jurisdiction makes an order under paragraph 5(b) of Schedule 2 that the notice shall no longer have effect.

Offences

10.—(1) Any person who—

- (a) imports milk in contravention of any requirement imposed by or under these Regulations;
- (b) where milk is required by or under these Regulations to be dealt with by him, does not deal with that milk in accordance with that requirement; or
- (c) in connection with the importation of milk, makes a statement or uses a document which he knows to be false in a material particular or recklessly makes a statement or uses a document which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(2) In any proceedings for an offence under these Regulations where that offence comprises the importation of milk which is unfit for human consumption, it shall be a defence for the defendant to prove that at the time when he imported the milk he did not know, and could not with reasonable diligence have ascertained, that it was unfit for human consumption.

(3) A prosecution may be brought under this regulation notwithstanding that action may have been or may remain to be taken, in relation to the milk to which the prosecution relates, under regulation 6(2) or Schedule 2.

Revocation

11. The Importation of Milk Regulations (Northern Ireland) 1983(a), the Importation of Milk (Amendment) Regulations (Northern Ireland) 1986(b) and the Importation of Milk (Amendment) (No. 2) Regulations (Northern Ireland) 1986(c) are hereby revoked.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 1st December 1988.

(L.S.)

S. R. Armstrong

Assistant Secretary

(a) S.R. 1983 No. 338

(b) S.R. 1986 No. 21

(c) S.R. 1986 No. 119

1.—(1) Specified drinking milk or bulk milk is pasteurised by means of a treatment involving the application of a high temperature for a short time (at least 71.7°C for 15 seconds or any equivalent combination), cooling immediately thereafter to a temperature of not more than 6°C and retaining at that temperature until the milk leaves the heat treatment establishment.

(2) Cream or milk-based drink is pasteurised by being heated to a temperature of not less than 72°C and retained at that temperature for not less than 15 seconds, or to such other temperature for such other period as has equivalent effect.

2. Specified drinking milk, cream, milk-based drink or bulk milk is sterilised by being heated in a hermetically sealed container to a temperature of not less than 108°C and retained at that temperature for not less than 45 minutes, or to such other temperature for such other period as has equivalent effect, and cooled as soon as practicable thereafter.

3.—(1) Specified drinking milk or bulk milk is heat treated by the ultra high temperature method to a temperature of not less than 135°C, by the application of a continuous flow of heat during one unbroken period of not less than 1 second and packaged aseptically in opaque containers.

(2) Cream or milk-based drink is heat treated by the ultra high temperature method to a temperature of not less than 140°C by the application of a continuous flow of heat during one unbroken period of not less than 2 seconds, or to such other temperature for such other period as has equivalent effect and packaged aseptically in opaque containers.

1. Save as specified in this Schedule:—

- (a) an importer shall ensure that, as soon as possible after importation and such examination as may be carried out by an officer of Customs and Excise, imported milk is taken to a designated place;
- (b) no person (other than an authorised officer or a person authorised in writing by the Department) shall remove milk from a designated place.

2.—(1) After the arrival of a consignment of imported milk at a designated place an authorised officer shall carry out a primary examination (that is to say an examination of any document accompanying the consignment of imported milk and at the option of the authorised officer such examination of that consignment as may be carried out without opening any closed container).

(2) If as a result of that primary examination the Department decides—

- (a) that any of the consignment of imported milk has been imported in breach of these Regulations, or
- (b) in the case of cream or milk-based drink, that human health would be protected if that consignment were not unconditionally authorised to be removed,

it shall give notice to the importer in writing that the consignment shall not be removed from the designated place for any purpose other than its disposal or destruction in accordance with sub-paragraph (3) or (4).

(3) In the case of specified drinking milk or bulk milk, having regard to considerations of human health, where the Department is of the opinion that—

- (a) it is not necessary to destroy the consignment, it shall require the importer at the importer's expense and at his option either to return the consignment to the consignor or to use it for a purpose other than human consumption or to destroy it;
- (b) it is necessary to destroy the consignment, it shall require the importer, at the importer's expense, to destroy the consignment.

(4) In the case of cream or milk-based drink, the Department shall require the importer at the importer's expense to export the consignment or to use it for a purpose other than human consumption or to destroy it.

(5) If as a result of that primary examination the Department does not come to a decision described in sub-paragraph (2) it may either—

- (a) unconditionally authorise the importer in writing to remove the consignment, or
- (b) subject to sub-paragraph (6) arrange the carrying out of further examination of the consignment by an authorised officer in accordance with paragraph 3.

(6) In the case of specified drinking milk or bulk milk, the Department may act under sub-paragraph (5)(b) only where it appears to it that one of the following provisions applies, that is to say:—

- (a) Article 5(4) of the Council Directive (which permits intensified checks in specified circumstances relating to the non-observance in a milk-treatment establishment of the provisions of the Council Directive);
- (b) Article 7(2) of the Council Directive (which permits checks where irregularities are suspected).

3.—(1) For the purpose of further examination under this paragraph an authorised officer may, to such extent as is reasonable and within such time as is reasonable—

- (a) remove any imported milk from a designated place,
- (b) open any container of imported milk,
- (c) take samples of imported milk,
- (d) test samples of imported milk,
- (e) analyse samples of imported milk, and
- (f) arrange, by agreement with any other person, for samples of imported milk to be tested and analysed by that other person.

(2) If as a result of that further examination the Department decides—

- (a) that any of the consignment of imported milk has been imported in breach of these Regulations, or
- (b) in the case of cream or milk-based drink that human health would be protected if the consignment were not unconditionally authorised to be removed,

it shall give notice to the importer in writing that the consignment shall not be removed from the designated place for any purpose other than its disposal or destruction in accordance with sub-paragraph (3) or (4).

(3) In the case of specified drinking milk or bulk milk, having regard to considerations of human health, where the Department is of the opinion that—

- (a) it is not necessary to destroy the consignment, it shall require the importer at the importer's expense and at his option either to return the consignment to the consignor or to use it for a purpose other than human consumption or to destroy it;
- (b) it is necessary to destroy the consignment, it shall require the importer, at the importer's expense, to destroy the consignment.

(4) In the case of cream or milk-based drink, the Department shall require the importer at the importer's expense to export the consignment or to use it for a purpose other than human consumption or to destroy it.

(5) If as a result of that further examination the Department does not come to a decision described in sub-paragraph (2) it shall unconditionally authorise the importer in writing to remove the consignment.

(6) The Department may unconditionally authorise an importer in writing to remove a consignment notwithstanding that further examination of that consignment has not been completed.

(7) Where further examination of a consignment is being carried out, the Department shall authorise the importer to remove from the designated place such milk as the importer may reasonably require for the purpose of sampling with a view to possible proceedings under these Regulations in a court of summary jurisdiction.

4.—(1) Where notice is given to an importer under paragraph 2(2) or 3(2) that a consignment of imported milk shall not be removed from a designated place for any purpose other than its disposal or destruction in accordance with paragraph 2(3), 2(4), 3(3) or 3(4), such notice shall:—

- (a) specify the grounds on which it is based;
- (b) where the imported milk is specified drinking milk or bulk milk inform the importer of his right to obtain the opinion of an expert by serving a counter-notice in accordance with sub-paragraph (4);
- (c) inform the importer that the consignment may be disposed of or destroyed by the Department so that it cannot be used for human consumption, unless—
 - (i) within a time specified in sub-paragraph (2) the importer gives to the Department a written undertaking to comply with the requirement to

dispose of or destroy the consignment as specified in the notice, or to try to prove to a court of summary jurisdiction that the decision of the Department under paragraph 2(2) or 3(2), as the case may be, was incorrect; or

(ii) the Department rescinds the notice.

(2) The time within which the importer is required to give an undertaking under sub-paragraph (1)(c)(i) shall be—

- (a) in the case of specified drinking milk or bulk milk where the importer serves a counter-notice in accordance with sub-paragraph (4), within seven days of the contents of the written opinion of the expert being notified to him under sub-paragraph (7)(a);
- (b) in the case of specified drinking milk or bulk milk where the importer does not serve a counter-notice in accordance with sub-paragraph (4), within seven days of the receipt of the notice under paragraph 2(2) or 3(2);
- (c) in any other case, a time specified in the notice under paragraph 2(2) or 3(2), being not earlier than the end of the next working day after the notice is received.

(3) If within the time specified in sub-paragraph (2) the Department has not received any written undertaking as is described in the notice, or if within that time it has received a written undertaking in accordance with sub-paragraph (1)(c)(i) and the undertaking has not been carried out, the Department may cause the consignment to be disposed of or destroyed by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom.

(4) An importer of specified drinking milk or bulk milk given a notice under paragraph 2(2) or 3(2) may, within seven days from the date of service of the notice, serve a counter-notice upon the Department requiring it to obtain the opinion of an expert, to be nominated by the Department, as to the matters specified in sub-paragraph (5).

(5) The Department shall consult the Commission of the European Economic Community as to the nomination of an expert, who shall be a national of a Member State of the said Community other than the exporting country or the United Kingdom and acting on the advice of the said Commission the Department shall nominate an expert to determine—

- (a) whether the consignment has been imported contrary to these Regulations; and
- (b) the accuracy and relevance of any matter specified in the notice under paragraph 2(2) or 3(2) as a ground on which such notice is based.

(6) The expert so nominated shall examine the consignment and determine the matters referred to in sub-paragraph (5) and shall give his written opinion thereon to the Department.

(7) Not later than the end of the next working day after receipt by it of the written opinion of the expert, the Department—

- (a) shall notify its contents to the importer who, under sub-paragraph (4), has required it to be obtained; and
- (b) may rescind the notice given under paragraph 2(2) or 3(2) by giving written notice to that effect to the importer.

(8) If within the time specified in sub-paragraph (2) the Department has received a written undertaking in accordance with sub-paragraph (1)(c)(i) to try to prove to a court of summary jurisdiction that the decision of the Department was incorrect, the Department shall—

- (a) not later than the end of the next working day after the receipt of the undertaking, take steps to obtain an order of a court of summary jurisdiction under paragraph 5;
- (b) authorise the importer to remove from the designated place such milk as the importer may reasonably require for the purpose of evidence in the court of summary jurisdiction; and
- (c) make available to the importer such information (in relation to any further examination which has taken place under paragraph 3) as the importer may reasonably require for the purpose of evidence in the court of summary jurisdiction.

5. Where, in pursuance of paragraph 4, an application is made for an order of a court of summary jurisdiction—

- (a) if the court of summary jurisdiction is satisfied that the importer has failed to prove that the decision of the Department (under paragraph 2(2) or 3(2)) was incorrect, the court shall order the consignment to be disposed of or destroyed under the supervision of the Department by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom;
- (b) if the court of summary jurisdiction is satisfied that the importer has proved that that decision was incorrect, the court shall order that the notice under paragraph 2(2) or 3(2), as the case may be, shall no longer have effect and unconditionally authorise the importer to remove the consignment from the designated place.

6. An authorised officer may with the agreement of an officer of Customs and Excise carry out any examination, or any part of an examination, of a consignment of imported milk before the examination of the consignment by the officer of Customs and Excise has been completed and if, as a result of such an examination, the Department gives the importer unconditional authorisation in writing to remove the consignment, compliance on the part of the importer with paragraph 1(a) shall not be required.

7. An authorised officer may, to such extent as is reasonable for the protection of human health, at any stage from the time when a consignment of imported milk reaches him for primary examination under paragraph 2 do anything specified in paragraph 3(1)(a) to (f) notwithstanding that he is not carrying out a further examination under paragraph 3 and may take such action as is reasonable in respect of the destruction or disposal of any milk which an authorised officer has removed under this paragraph.

8.—(1) Where unconditional authorisation is given under this Schedule to an importer to remove from a designated place a consignment from which milk has been previously removed under paragraph 3(1), 3(7), 4(8)(b) or 7, that authorisation shall relate to the remainder of that consignment.

(2) Where under paragraph 2(5)(b) the Department arranges the carrying out of a further examination of a consignment from which milk has been previously removed under paragraph 7, that further examination (and anything consequent on that further examination) shall relate to the remainder of that consignment.

9. Where a notice under paragraph 2(2) or 3(2) (or under any equivalent provision of legislation having effect in Scotland or England and Wales) is in effect in relation to a consignment, an authorised officer may cause any consignment subsequently landed in Northern Ireland, which contains any milk from that previously mentioned consignment, to be destroyed or disposed of by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom.

1. In this Schedule “permitted imported milk” means—

- (a) milk imported into Northern Ireland
 - (i) pursuant to the disapplication by regulation 4 of the importation prohibition contained in regulation 3; and
 - (ii) in accordance with these Regulations; and
- (b) milk brought into Northern Ireland from another part of the United Kingdom where that milk has been imported into that other part of the United Kingdom in accordance with legislation in force in that other part of the United Kingdom.

2. The Imported Food (Northern Ireland) Regulations 1984(a) shall not apply in respect of permitted imported milk.

3. The following provisions shall not apply in respect of permitted imported milk and milk brought to Northern Ireland from Great Britain which satisfies the requirements set out in regulation 7(2) provided that no processing or packaging of that milk is carried out in Northern Ireland—

- (a) Articles 3, 4, 5, 6(2), 6(3), 6(4), 6(5), 6(6), 8, 10(1)(a), 10(1)(c), 10(2) and 11 of the Milk (Northern Ireland) Order 1983(b);
- (b) section 7 of the Marketing of Milk Products Act (Northern Ireland) 1958(c);
- (c) the Milk Regulations (Northern Ireland) 1987(d) with the exception of:—
 - (i) regulations 30(1), 30(3), 30(4), 31(3), 38(2), 42, 43 and Schedule 3, Part I except that in their application in respect of imported milk for the words “holder of a distributor’s licence” or “licence holder” or “holder of a distributor’s licence or an untreated milk licence” where they appear the word “importer” shall be substituted and in respect of milk brought to Northern Ireland from Great Britain for the words “holder of a distributor’s licence” or “licence holder” or “holder of a distributor’s licence or an untreated milk licence” where they appear the word “distributor” shall be substituted;
 - (ii) regulation 29(4) except that in its application for sub-paragraph (a) the words “a description of the milk and the heat-treatment to which it has been subjected” shall be substituted, in sub-paragraph (b) the words “and address of the person” shall be substituted for the words “or licence number of the licence holder” and in sub-paragraph (c)(i) for the words “licence holder” the word “person” shall be substituted;
 - (iii) regulations 29(5), 29(6), 29(7), 29(8), 29(9), 30(5), 35, 38(1), 40 and 41.

4. Where any processing or packaging of permitted imported milk and milk brought to Northern Ireland from Great Britain satisfying the requirements set out in regulation 7(2) is carried out in Northern Ireland—

- (a) section 7(2) of the Marketing of Milk Products Act (Northern Ireland) 1958 shall be modified in respect of such milk by substituting “paragraph (c)” for “paragraphs (a) and (c)”; and

(a) S.I. 1984/1917

(b) S.I. 1983/148 (N.I. 2)

(c) 1958 c. 31 (N.I.) as amended by 1967 c. 15 (N.I.) s. 13, 14 and 15 and S.I. 1984/702 (N.I. 2) Art. 24 and Sch.

(d) S.R. 1987 No. 229

- (b) regulation 6 of the Milk Regulations (Northern Ireland) 1987 shall be modified in respect of such milk as follows:
- (i) in paragraphs (b), (e) and (h) the words “which has been produced by the holders of milk licences or untreated milk licences and” where they appear, shall be deleted;
 - (ii) in paragraphs (c), (d), (f), (g) (i) and (j) after the words “whole milk” where they occur the words “if so derived in Northern Ireland” shall be inserted and the words “produced by the holders of milk licences or untreated milk licences” where they appear, shall be deleted;
 - (iii) in paragraphs (k), (l) and (m) the words “produced by the holders of milk licences or untreated milk licences” and the words “and which has been derived from whole milk produced by the holders of milk licences or untreated milk licences” where they occur shall be deleted and after the word “adjusted” where it occurs there shall be inserted the words “and if so adjusted in Northern Ireland carried out”.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations consolidate with amendments the Importation of Milk Regulations (Northern Ireland) 1983, the Importation of Milk (Amendment) Regulations (Northern Ireland) 1986 and the Importation of Milk (Amendment) (No. 2) Regulations (Northern Ireland) 1986.

Except insofar as they are concerned with the importation of raw milk from the Republic of Ireland, milk brought to Northern Ireland from Great Britain and milk-based drink and cream the Regulations make provision for the implementation of Council Directive No. 85/397/EEC (O.J. L226, 24.8.85, p. 13) on health and animal health problems affecting intra-Community trade in heat-treated milk.

The principal changes are that—

- (a) subject to compliance with specified requirements—
 - (i) pasteurised milk, cream and milk-based drink; and
 - (ii) heat treated milk in bulk as well as pre-packaged milk, may now be imported (regulation 4(1));
- (b) an importer whose importation of a consignment of milk is refused entry, is permitted, in specified circumstances, to obtain the opinion of an expert (regulation 6 and Schedule 2, paragraph (4)).

Consequentially, regulation 2(1) contains new definitions, in particular of “bulk milk”, “pre-packaged milk” and “specified drinking milk”. The last expression comprises — semi-skimmed milk, skimmed milk and standardised whole milk, the categories of drinking milk permitted to be imported in closed containers by the Importation of Milk Regulations (Northern Ireland) 1983.

The Regulations prohibit (regulation 3) the importation of milk, cream and milk-based drink into Northern Ireland unless (regulation 4)—

- (a) it has been sterilised or pasteurised or heat treated by the ultra high temperature method,
- (b) it comes from an EEC Member State,
- (c) it is accompanied by an authorised certificate,
- (d) it is fit for human consumption,
- (e) it is imported through an authorised place of entry, and
- (f) it is imported, in the case of pasteurised milk, as pre-packaged milk or in a tanker which has been sealed by means of a watertight closure; in the case of sterilised milk, in the hermetically sealed container in which it was sterilised and, in the case of milk which has been heat treated by the ultra high temperature method, in the opaque containers in which it was packaged aseptically immediately after heat treatment.

The Regulations permit the importation of raw milk from the Republic of Ireland where the Department of Agriculture is satisfied that such milk or any semi-skimmed or skimmed milk derived from it will not be used for sale for direct consumption as liquid milk or cream, (regulation 4(1)(b)).

Details of authorised certificates and authorised places of entry must be published by notice in the Belfast Gazette (regulations 4 and 5), and there is provision (regulation 5) for importation of particular consignments, subject to written Departmental authorisation, through a place of entry not listed in such a notice.

Regulation 6 and Schedule 2 deal with the procedure for examination on importation by authorised officers (that is to say officers of any district council approved by the Department of Agriculture or any person authorised by the Department). There is provision for reference of a decision of the Department resulting from such examination to a court of summary jurisdiction and, in the case of specified drinking milk or bulk milk, to obtain the opinion of an expert. These provisions do not apply to raw milk imported from the Republic of Ireland.

An authorised officer's powers of entry are set out in regulation 8(2).

Regulation 7 and Schedule 3 adapt existing legislation to imported milk, cream and milk-based drink and milk, cream and milk-based drink brought to Northern Ireland from Great Britain. Where no processing or packaging of milk is carried out in Northern Ireland the milk is exempt from the licensing and designation provisions of the Milk (Northern Ireland) Order 1983 (S.I. 1983/148 (N.I. 2)). Milk and milk-based drink are subject, however, to the same labelling provisions and the same storage, handling and transport requirements as domestically produced milk and records are required to be kept of transactions.

Regulation 7 and Schedule 3 also:

- (a) provide for permitted imported cream and cream brought to Northern Ireland from Great Britain to be lawfully sold in Northern Ireland;
- (b) modify the Milk Regulations (Northern Ireland) 1987 and the Marketing of Milk Products Act (Northern Ireland) 1958 in respect of milk, milk-based drink and cream which are imported or brought to Northern Ireland from Great Britain and which are processed or packaged in Northern Ireland.

Offences against these Regulations are punishable on summary conviction by a fine not exceeding £2,000 (regulation 10).