

## 1976 No. 1883

## FOOD AND DRUGS

## MILK AND DAIRIES

**The Drinking Milk Regulations 1976**

<i>Made - - - -</i>	<i>9th November 1976</i>
<i>Laid before Parliament</i>	<i>18th November 1976</i>
<i>Coming into Operation</i>	<i>9th December 1976</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Social Services, acting jointly, in exercise of the powers conferred on them by sections 29, 87(3), 123 and 123A of the Food and Drugs Act 1955(a) as amended by section 4(1) of, and paragraph 3(2)(a) of Schedule 4 to, the European Communities Act 1972(b) and as read with the Secretary of State for Social Services Order 1968(c), and of all other powers enabling them in that behalf, hereby make the following regulations after consultation with such organisations as appear to them to be representative of interests substantially affected by the regulations:—

*Citation and commencement*

1. These regulations may be cited as the Drinking Milk Regulations 1976, and shall come into operation on 9th December 1976.

*Interpretation*

2.—(1) In these regulations, unless the context otherwise requires—

“consumer” means any person to whom milk is delivered and who neither sells it nor uses it as an ingredient of another product for sale;

“container” means any closed and fastened container in which milk is to be delivered to the consumer;

“food and drugs authority” has the meaning assigned to it by section 198 of the Local Government Act 1972(d);

“guideline figure” means the guideline figure as to the fat content of standardized whole milk fixed by the Council in accordance with Article 3.7 of Council Regulation No. 1411/71/EEC(e), as amended (f), in respect of the United Kingdom for the period beginning with 1st October 1976 and ending with 31st March 1977 or for any subsequent milk year;

“human consumption” does not include use in the preparation of food for sale for human consumption;

“milk”, “drinking milk”, “raw milk”, “standardized whole milk”, “non-standardized whole milk”, “semi-skimmed milk” and “skimmed milk” have the meanings respectively assigned to them by Council Regulation No. 1411/71/EEC, as amended;

(a) 4 & 5 Eliz. 2 c. 16.

(b) 1972 c. 68.

(c) S.I. 1968/1699 (1968 III, p. 4585).

(d) 1972 c. 70.

(e) O.J. No. L148, 3.7.71, p. 4 (O.J./S.E. 1971 (II) p. 412). Corrigendum at O.J. No. L199, 19.7.73, p. 38.

(f) The relevant amending instrument is Council Regulation No. 566/76/EEC: O.J. No. L67, 15.3.76, p. 23. Corrigendum at O.J. No. L107, 24.4.76, p. 22.

“milk purveyor” includes any person who sells milk, whether wholesale or by retail;

“milk year” means the period beginning with 1st April in any calendar year and ending with 31st March in the following calendar year;

“sell by retail” means sell to a person buying otherwise than for the purpose of re-sale, but does not include selling to a caterer for the purposes of his catering business or to a manufacturer for the purposes of his manufacturing business;

“sell wholesale” means selling otherwise than by retail; and “sold wholesale” shall be construed accordingly.

(2) The Interpretation Act 1889<sup>(a)</sup> shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament, and as if these regulations and the regulations hereby revoked were Acts of Parliament.

#### *Exemptions*

3. The provisions of these regulations shall not apply to milk intended for exportation to any place outside the United Kingdom.

#### *Delivery of milk*

4. No person shall deliver on or in pursuance of any sale for human consumption milk which is not included in any of the following categories of drinking milk:—

- (a) raw milk;
- (b) non-standardized whole milk produced in the United Kingdom;
- (c) standardized whole milk imported during any milk year from another Member State and having a fat content of not less than the guideline figure fixed for that year or any part of that year;
- (d) semi-skimmed milk;
- (e) skimmed milk.

#### *Alteration in the composition of drinking milk*

5.—(1) No person shall make any alteration in the composition of drinking milk;

Provided that the fat content laid down for skimmed milk or semi-skimmed milk by Council Regulation No. 1411/71/EEC, as amended, may be obtained by adding or separating milk or cream or by adding skimmed milk or semi-skimmed milk.

(2) No person shall sell, or offer or expose for sale any drinking milk of which the composition has been altered in contravention of this regulation.

#### *Labelling of standardized whole milk*

6. No person shall sell, or offer or expose for sale any standardized whole milk specified in regulation 4(c) hereof in a container unless that container is conspicuously and legibly labelled with the words “standardized whole milk”.

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(a) 1889 c. 63.

*Records of transactions in standardized whole milk*

7. Every milk purveyor shall—

(a) keep accurate records of—

(i) the quantities of standardized whole milk specified in regulation 4(c) hereof purchased by him and the names and addresses of the persons from whom it was purchased;

(ii) the quantities of standardized whole milk specified in regulation 4(c) hereof sold wholesale by him and the names and addresses of the persons to whom it was so sold;

(b) retain such records for a period of twelve months from the date of the transaction to which the record relates;

(c) produce such records to any authorised officer of a food and drugs authority who himself produces, if so required, some duly authenticated document showing his authority.

*Penalties and enforcement*

8.—(1) If any person contravenes or fails to comply with any of the foregoing provisions of these regulations he shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both, and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

(2) Each food and drugs authority shall enforce and execute such provisions in their area.

(3) Every food and drugs authority shall give such assistance and information to any other food and drugs authority as that other food and drugs authority may reasonably require for the purpose of carrying out their duties under these regulations.

*Non-application of certain provisions of the Food and Drugs Act 1955*

9. The provisions of section 94(1) of and Part II of the Seventh Schedule to the Food and Drugs Act 1955 (which relate to sampling of milk and subsequent proceedings) shall not apply for the purposes of these regulations in relation to any milk labelled “standardized whole milk”, “semi-skimmed milk” or “skimmed milk”.

*Application of various sections of the Food and Drugs Act 1955*

10.—(1) Without prejudice to the provisions of the Food and Drugs Act 1955 which specifically apply in respect of regulations made thereunder, sections 108(3) and (4) (which relate to prosecutions), 110(1), (2) and (3) (which relate to evidence of analysis), 112 (which relates to the power of a court to require analysis by the Government Chemist), 113 (which relates to a contravention due to some person other than the person charged), 115(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 116 (which relates to offences in relation to warranties and certificates of analysis) of the Food and Drugs Act 1955 shall (except in the case of section 115(2)(c) in relation to milk labelled “standardized whole milk”, “semi-skimmed milk” or “skimmed milk”) apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under or taken or brought under that Act

included references to proceedings, or a prosecution as the case may be, taken or brought for an offence under these regulations and as if the reference in the said section 112 to subsection (4) of section 108 included a reference to that subsection as applied by these regulations.

(2) Paragraph (b) of the proviso to section 108(1) of the Food and Drugs Act 1955 shall apply for the purposes of these regulations as if the reference therein to section 116 of that Act included a reference to that section as applied by these regulations.

*Revocations*

**11.** The Milk and Dairies (Emulsifiers and Stabilisers) Regulations 1962(a), the Milk and Dairies (Preservatives) Regulations 1962(b) and the Separated Milk Regulations 1973(c) are hereby revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 5th November 1976.

(L.S.)

*John Silkin,*  
Minister of Agriculture, Fisheries and Food.

9th November 1976.

*David Ennals,*  
Secretary of State for Social Services.

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(a) S.I. 1962/721 (1962 I, p. 737).  
(c) S.I. 1973/369 (1973 I, p. 1274).

(b) S.I. 1962/1531 (1962 II, p. 1652).

## EXPLANATORY NOTE

*(This Note is not part of the regulations.)*

These regulations, which apply to England and Wales only and come into force on 9th December 1976, supplement Council Regulation No. 1411/71/EEC, as amended.

They—

- (a) restrict the delivery of milk on or in pursuance of sale for human consumption to specified categories of drinking milk (regulation 4);
- (b) prohibit any alteration in the composition of drinking milk, except as specified in relation to the fat content of skimmed milk and semi-skimmed milk (regulation 5);
- (c) require any container in which specified standardized whole milk is sold to be labelled in the prescribed manner (regulation 6);
- (d) require milk purveyors to maintain records of all purchases and wholesale sales of specified standardized whole milk (regulation 7).

The regulations do not apply to milk intended for exportation to any place outside the United Kingdom (regulation 3).

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