
STATUTORY INSTRUMENTS

1988 No. 2204

The Milk (Special Designation) Regulations 1988

PART IV

**refusal, suspension and revocation of producers'
licences and appeals arising therefrom**

Refusal, suspension and revocation of producers' licences

9.—(1) The Minister shall not revoke a producers' licence being a licence to which section 45 of the Act applies (that is to say, a licence held by a retailer for a specified area) or refuse a grant of a licence by way of renewal of any such licence on the ground of breach of a condition thereof, unless—

- (a) the breach in question is of a condition to which section 45 as aforesaid applies,
- (b) the holder of the licence has been convicted of an offence under that section by virtue of the breach in question, or has been convicted, within twelve months before the time of the breach in question or after the time of it, of an offence under section 39, 40 or 41 of the Act, or of an offence under Milk and Dairies Regulations for which a penalty is thereby imposed, and
- (c) the decision of the licensing authority to revoke, or to refuse renewal, as the case may be, is made within twelve months from the date of the breach in question.

(2) The Minister shall not suspend a producer's licence, being a licence held by a retailer for a specified area, on the ground of breach of a condition thereof, by virtue of any one decision by him, for a period of more than 3 months, but the period of suspension awarded by any such decision may be extended by a subsequent such decision made in accordance with regulation 10.

Procedure

10.—(1) Subject, as respects the suspension or revocation of a producer's licence which is a licence held by a retailer for a specified area, to regulation 9 and to paragraph (2) below, the Minister may suspend or revoke a producer's licence on the ground of any breach of a condition thereof, being a breach by virtue of which the producer has been convicted of an offence under section 45 of the Act, or which, not being such a breach as aforesaid, is proved (in a case referred to a tribunal by virtue of these Regulations) by the finding of the tribunal, or (in any other case) to the satisfaction of the Minister.

(2) No producer's licence shall be suspended or revoked by reason only of the producer's milk being found not to comply with the conditions of the licence after it has left his custody and control, if he shows to the satisfaction of the Minister that such non-compliance was not due to any act or default of himself or of his servants or agents.

(3) Where the Minister proposes to refuse to grant a producer's licence, or proposes to suspend or revoke such a licence, he shall serve on the person affected a notice informing him of the proposal and the reasons therefor, and of his right under paragraph (4) below.

(4) The person affected may within 21 days after the receipt of such notice make representations in writing to the Minister in respect of all or any of the reasons stated therein, and where the issue is as to revocation or suspension of a producer's licence, being a licence held by a retailer for a specified area, or refusal of a grant of a licence by way of renewal of such a licence, he may within the same period request the Minister to refer the matter to a tribunal constituted in accordance with these Regulations. If such request is made to the Minister as aforesaid, he shall forthwith refer the matter to a tribunal in accordance with the provisions of Schedule 8 and on receipt of the tribunal's report the Minister shall send a copy thereof to the person affected.

(5) The decision of the Minister to refuse to grant, or to suspend, or to revoke, a producer's licence shall be final, but before making his decision he shall consider any representations made under the preceding paragraph and where the matter has been referred to a tribunal, the report of the tribunal. The Minister shall serve on the person affected a notice informing him of the decision and the reasons therefor.

(6) Where before the end of the period for which a producer's licence was granted, the holder of that licence applies for a licence in renewal thereof and his application is not finally determined before the end of the said period, the existing licence shall, subject to any suspension under these Regulations, remain in force until his application is so determined, and where notice of a proposal to refuse to grant such a licence is given by the Minister during the currency of a period when representations may be made against his proposed decision to suspend or revoke the existing licence, or in the case of a retailer for a specified area reference to a tribunal in respect of the matter may be requested, such representations or reference shall be deemed to include representations or reference in respect of such refusal.

Tribunals

11. Where under this Part of these Regulations any issue is referred to a tribunal the constitution and procedure of the tribunal shall conform with the provisions of Schedule 8.