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STATUTORY INSTRUMENTS

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**1995 No. 3240**

**FOOD**

**The Cheese and Cream Regulations 1995**

<i>Made</i>	- - - -	<i>12th December 1995</i>
<i>Laid before Parliament</i>		<i>13th December 1995</i>
<i>Coming into force</i>	- -	<i>1st January 1996</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4)(1), 16(1)(a), (e) and (f), 26(1) and (3) and 48(1) of the Food Safety Act 1990(2) and of all other powers enabling them in that behalf, hereby make the following Regulations, after consultation in accordance with section 48(4) of the said Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations:

**Title and commencement**

1. These Regulations may be cited as the Cheese and Cream Regulations 1995 and shall come into force on 1st January 1996.

**Interpretation and application**

2. In these Regulations, unless the context otherwise requires—

“the Act” means the Food Safety Act 1990;

“cheese” means the fresh or matured product intended for sale for human consumption, which is obtained as follows—

- (a) in the case of any cheese other than whey cheese, by combining, by coagulation or by any technique involving coagulation, of any of the following substances, namely milk, cream, skimmed milk, partly skimmed milk, concentrated skimmed milk, reconstituted dried milk, butter milk, materials obtained from milk, other ingredients necessary for the manufacture of cheese provided that those are not used for replacing, in whole or in part, any milk constituent, with or without partially draining the whey resulting from coagulation;

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(1) Section 6(4) was amended by section 31 of and paragraph 6 of Schedule 1 to the Deregulation and Contracting Out Act 1994, c. 40.  
(2) 1990 c. 16; “the Ministers” is defined in section 4(1) of the Act.

- (b) in the case of whey cheese—
  - (i) by concentrating whey with or without the addition of milk and milk fat, and moulding such concentrated whey, or
  - (ii) by coagulating whey with or without the addition of milk and milk fat;

“cheese spread” means cheese which has been subjected to a process of melting and mixing with milk products other than cheese, with or without the addition of emulsifying salts;

“clotted cream” means cream which has been produced and separated by the scalding, cooling and skimming of milk or cream;

“cream” means that part of cows' milk rich in fat which has been separated by skimming or otherwise and which is intended for sale for human consumption;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“emulsifying salt” means any substance which converts proteins contained in cheese into a dispersed form thereby bringing about homogeneous distribution of fat and other components;

“food authority” has the same meaning as in the Act except that it does not include—

- (a) the council of a district in a non-metropolitan county in England except where the county functions have been transferred to that council pursuant to a structural change,
- (b) until 1st April 1996, the council of a district in Wales, and
- (c) the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple);

“labelling”, in relation to a food, includes any words, particulars, trade mark, brand name, pictorial matter or symbol relating to the food and appearing on the packaging of the food or on any document, notice, label, ring or collar accompanying the food;

“member State” means a member State of the European Community;

“processed cheese” means cheese which has been subjected to a process of melting and mixing with or without the addition of emulsifying salts;

“sell” includes offer or expose for sale or have in possession for sale and “sale” and “sold” shall be construed accordingly;

“sterilised cream” means cream which has been subjected to a process of sterilisation by heat treatment in the container in which it is to be supplied to the consumer.

### **Exemption**

3.—(1) These Regulations shall not apply in respect of—

- (a) any cream which is brought into Great Britain from an EEA State in which it was lawfully produced and sold or from a member State in which it was in free circulation and lawfully sold, or
- (b) any cheese which is brought into Great Britain from a member State in which it was lawfully produced and sold or in which it was in free circulation and lawfully sold,

and is suitably labelled to give the nature of the cream or cheese.

(2) For the purposes of this regulation “free circulation” shall be construed in accordance with Article 9.2 of the Treaty establishing the European Community.

### **Cheese containing enzymes**

4. No person shall sell any cheese containing any enzyme other than—
- (a) in any case, an enzyme preparation capable of use and used for the purpose of coagulating milk in a manner suitable for cheese making, and
  - (b) in the case of processed cheese or cheese spread, an enzyme preparation suitable for the acceleration of ripening, and
  - (c) in the case of Feta, Provolone, Pecorino or Romano cheese, lipases from animal sources for the purpose of flavour production.

### **Restrictions on the use of certain names of cheese**

5.—(1) The name which appears in column 1 below shall not be used in the labelling of any cheese as the name of the cheese, whether or not qualified by other words, unless—

- (a) the amount of water contained in the cheese expressed as a percentage of the total weight of the cheese does not exceed the percentage stated in column 2 below opposite that name, and
- (b) the amount of milk fat in the cheese expressed as a percentage of the dry matter of the cheese is not less than 48%.

Column 1	Column 2
Variety of cheese	Maximum percentage of water
Cheddar	39
Blue Stilton	42
Derby	42
Leicester	42
Cheshire	44
Dunlop	44
Gloucester	44
Double Gloucester	44
Caerphilly	46
Wensleydale	46
White Stilton	46
Lancashire	48

(2) No person shall sell any cheese in the labelling of which a name is used in contravention of paragraph (1) of this regulation.

### **Restrictions on the use of certain names of cream**

6.—(1) The name which appears in column 1 of the table in paragraph (2) below shall not be used in the labelling of any cream as the name of the cream, whether or not qualified by other words, unless the cream complies with the requirements specified in column 2 below opposite that name except that the relevant requirement as to milk fat content need not be complied with if the name contains qualifying words which indicate that the milk fat content of the cream is greater or less than that specified in column 2 of paragraph (1) of this regulation, as the case may be.

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(2) The table referred to in paragraph (1) above is as follows—

Column 1	Column 2
clotted cream	the cream is clotted and contains not less than 55% milk fat;
double cream	the cream contains not less than 48% milk fat;
whipping cream	the cream contains not less than 35% milk fat;
whipped cream	the cream contains not less than 35% milk fat and has been whipped;
sterilised cream	the cream is sterilised cream and contains not less than 23% milk fat;
cream or single cream	the cream is not sterilised cream and contains not less than 18% milk fat;
sterilised half cream	the cream is sterilised cream and contains not less than 12% milk fat;
half cream	the cream is not sterilised cream and contains not less than 12% milk fat.

(3) No person shall sell any cream in the labelling of which a name is used in contravention of paragraph (1) above.

### **Defence**

7. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that it complies with that legislation.

### **Offences, penalty 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 on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Each food authority shall enforce and execute such provisions within its area.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

### **Transitional provisions**

9. In any proceedings for an offence against these Regulations it shall be a defence to prove that—

- (a) the act was committed before 1st July 1997; and
- (b) the matters constituting the offence would not have constituted an offence against the Regulations hereby revoked if those Regulations had been in operation when the act was committed.

### **Application of various provisions of the Act**

**10.** The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and unless the context otherwise requires any reference in them to the Act shall be construed as a reference to these Regulations—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumption that food intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence);
- (e) section 30(8) (which relates to documentary evidence);
- (f) section 33 (obstruction etc. of officers);
- (g) section 36 (offences by bodies corporate);
- (h) section 44 (protection of officers acting in good faith).

### **Revocation**

**11.** The Regulations listed in the Schedule hereto are hereby revoked.

7th December 1995

*Angela Browning*  
Parliamentary Secretary, Ministry of Agriculture,  
Fisheries and Food

Signed by authority of the Secretary of State for Health

3rd December 1995

*Cumberlege*  
Parliamentary Under Secretary of State for  
Health

12th December 1995

*Lindsay*  
Parliamentary Under Secretary of State, Scottish  
Office

Signed by the authority of the Secretary of State for Wales

7th December 1995

*Rod Richards*  
Parliamentary Under Secretary of State, Welsh  
Office

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## THE SCHEDULE

Regulation 11

### REGULATIONS REVOKED

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The Cheese Regulations 1970	S.I. <a href="#">1970/94</a>
The Cheese (Scotland) Regulations 1970	S.I. <a href="#">1970/108</a>
The Cream Regulations 1970	S.I. <a href="#">1970/752</a>
The Cream (Scotland) Regulations 1970	S.I. <a href="#">1970/1191</a>
The Cheese (Amendment) Regulations 1974	S.I. <a href="#">1974/1122</a>
The Cheese (Scotland) Amendment Regulations 1974	S.I. <a href="#">1974/1337</a>
The Cheese (Amendment) Regulations 1984	S.I. <a href="#">1984/649</a>
The Cheese (Scotland) Amendment Regulations 1984	S.I. <a href="#">1984/847</a>

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations supersede the [Cheese Regulations 1970 \(S.I. No. 94\)](#) and the [Cream Regulations 1970 \(S.I. No. 752\)](#) and their Scottish equivalents which are revoked by these Regulations.

In certain circumstances cream and cheese brought into Great Britain from another European Economic Area State are exempt from the effects of the Regulations if they are suitably labelled to give the nature of the food (Regulation 3).

Controls are retained on the use of enzymes in the manufacture of cheese (Regulation 4). Certain varieties of cheese will continue to be subject to regulation as to description (Regulation 5).

Cream may now be sold without its having to bear a description chosen from a closed list of prescribed descriptions but if offered for sale as clotted cream, double cream, whipping cream, whipped cream, sterilised cream, cream or single cream or half cream it must, in the case of clotted cream, be clotted and, in the case of whipped cream, be whipped and, in all cases, it must contain the minimum percentage of fat prescribed for cream of the description chosen (Regulation 6).

A defence is provided in relation to exports in implementation of Articles 2 and 3 of Council Directive [89/397/EEC](#) (OJNo. L186, 30.6.89, p.23) on the official control of foodstuffs, as read with the ninth recital to that Directive (Regulation 7).

A compliance cost assessment of the effect that this instrument would have on the cost of business is available from:

Food Labelling and Standards Division Branch B

Ministry of Agriculture, Fisheries and Food

Ergon House

17 Smith Square

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