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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 359**

**FOOD**

**Drinking Milk Regulations (Northern Ireland) 1998**

*Made - - - - 15th October 1998*

*Coming into operation 1st December 1998*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1), 16(2), 25(1) and (3), 26(3) and 47(2) of the Food Safety (Northern Ireland) Order 1991<sup>(1)</sup> and of all other powers enabling it in that behalf and after consultation in accordance with Article 47(3) of the said Order with such organisations as appear to it to be representative of interests likely to be substantially affected by the Regulations, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Drinking Milk Regulations (Northern Ireland) 1998 and shall come into operation on 1st December 1998.

**Interpretation**

2. In these Regulations—

“the Council Regulation” means Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk<sup>(2)</sup>;

“the Order” means the Food Safety (Northern Ireland) Order 1991;

“sell” includes possess for sale, and offer, expose or advertise for sale.

**Sale or delivery of milk and use of sales descriptions**

3. No person shall sell or deliver milk, or use or omit to use a sales description for any product, in contravention of Article 2 of the Council Regulation (as read with Article 3 of that Regulation and, after 31st December 1998, as read also with Article 4 of that Regulation).

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(1) S.I.1991/762 (N.I. 7) as amended by S.I. 1996/1933 (N.I. 12). See Article 2(2) for the definitions of “the Department concerned” and “regulations”

(2) O.J. No. L351, 23.12.97, p. 13

### **Importation of products from outside the European Community for sale as drinking milk**

4. No person shall import into Northern Ireland from outside the European Community any product for sale as drinking milk in contravention of Article 5 of the Council Regulation.

### **Enforcement**

5. Each district council shall enforce and execute these Regulations within its district.

### **Offences and penalty provision**

6. If any person contravenes regulation 3 or 4 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.

### **Defence in relation to exports**

7. In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

- (a) that the product 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 such product complies with that legislation; and
- (b) in the case of export to another member State, that the legislation complies with the Council Regulation.

### **Application of provisions of the Order**

8. The following provisions of the Order shall apply for the purposes of these Regulations and any reference in those provisions to the Order shall be construed as a reference to these Regulations—

- (a) Articles 2(4) and 3 (extended meaning of “sale” etc.);
- (b) Article 4 (presumptions that food intended for human consumption);
- (c) Article 19 (offences due to fault of another person);
- (d) Article 20 (defence of due diligence) as it applies for the purposes of Article 7, 13 or 14 of the Order;
- (e) Article 30(8) (which relates to documentary evidence);
- (f) Article 34 (obstruction, etc., of officers);
- (g) Article 36 (punishment of offences) in so far as it relates to offences under Article 34(1) and (2).

### **Revocations**

9. The statutory provisions specified in the Schedule are hereby revoked to the extent specified in column 3 of that Schedule.

### **Amendments**

10.—(1) In the Dairy Products (Hygiene) Regulations (Northern Ireland) 1995(3), in regulation 2(1) (interpretation), for the definition of “drinking milk” there shall be substituted—

““drinking milk”—

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(3) [S.R. 1995 No. 201](#), to which there are amendments not relevant to these Regulations

- (a) in relation to cows' milk, has the meaning given by Article 1(2)(b) of Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk; and
  - (b) in relation to other milk, means milk intended for delivery as such to the ultimate consumer;”.
- (2) In the Food Labelling Regulations (Northern Ireland) 1996(4), in regulation 2(1) (interpretation)—
- (a) in the definition of “raw milk”, for the words from “Article 3.1 of” to “as amended” there shall be substituted “Article 3(1) of Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk”;
  - (b) in the definitions of “semi-skimmed milk”, “skimmed-milk” and “whole milk”, for the words from “Article 3.1 of” to the end in each case there shall be substituted “Article 3(1) of Council Regulation (EC) No. 2597/97”.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

15th October 1998.

*W. B. Smith*  
Assistant Secretary

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(4) S.R. 1996 No. 383, to which there are amendments not relevant to these Regulations

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## SCHEDULE

Regulation 9

**Revocations**

Column 1 <i>Title</i>	Column 2 <i>Reference</i>	Column 3 <i>Extent of revocation</i>
Drinking Milk Regulations (Northern Ireland) 1977	<a href="#">S.R. 1977 No. 8</a>	The whole Regulations
Food (Revision of Penalties and Mode of Trial) Regulations (Northern Ireland) 1987	<a href="#">S.R. 1987 No. 38</a>	In Schedule 1, the reference to the Drinking Milk Regulations (Northern Ireland) 1977
Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991	<a href="#">S.R. 1991 No. 203</a>	Article 13. In Part II of Schedule 1 and in Schedule 4 the references to the Drinking Milk Regulations (Northern Ireland) 1977
Food Safety (Exports) Regulations (Northern Ireland) 1991	<a href="#">S.R. 1991 No. 344</a>	In the Schedule, the reference to the Drinking Milk Regulations (Northern Ireland) 1977
Milk (Standardisation and Importation) Regulations (Northern Ireland) 1992	<a href="#">S.R. 1992 No. 559</a>	The whole Regulations
Dairy Products (Hygiene) Regulations (Northern Ireland) 1995	<a href="#">S.R. 1995 No. 201</a>	Regulation 24(2)

**EXPLANATORY NOTE**

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

These Regulations make provisions for the enforcement and execution of Council Regulation (EC) No. 2597/97 laying down additional rules on the common organisation of the market in milk and milk products for drinking milk (“the Council Regulation”).

The Regulations—

- (a) prohibit the sale or delivery of milk, or the use of or failure to use a sales description for any product, in contravention of the Council Regulation (regulation 3);
- (b) prohibit the importation from outside the European Community of a product for sale as drinking milk in contravention of the Council Regulation (regulation 4);
- (c) specify the enforcement authority (regulation 5) and create offences and prescribe a penalty (regulation 6);

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- (d) provide a defence in relation to exports, in accordance with Articles 2 and 3 of Council Directive [89/397/EEC](#) (O.J. No. L186, 30.6.89, p. 23) on the official control of foodstuffs, as read with the ninth recital to that Directive (regulation 7);
- (e) apply various provisions of the Food Safety (Northern Ireland) Order 1991 (regulation 8);
- (f) revoke the statutory provisions specified in the Schedule to the extent specified (regulation 9), and make consequential amendments (regulation 10).