

## 1973 No. 914 (S.72)

## FOOD AND DRUGS

## The Separated Milk (Scotland) Regulations 1973

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| <i>Made - - - -</i>           | <i>8th May 1973</i>   |
| <i>Laid before Parliament</i> | <i>24th May 1973</i>  |
| <i>Coming into Operation</i>  | <i>14th June 1973</i> |

In exercise of the powers conferred on me by section 56 and 56A of the Food and Drugs (Scotland) Act 1956(a) as read with section 4(1) of, and paragraph 3(2)(a) and (b) of Schedule 4 to, the European Communities Act 1972 (b) and of all other powers enabling me in that behalf, and after consultation with such organisations as appear to me to be representative of interests substantially affected by these regulations I hereby make the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Separated Milk (Scotland) Regulations 1973 and shall come into operation on 14th June 1973.

*Interpretation*

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

“the Act” means the Food and Drugs (Scotland) Act 1956;

“the Act of Accession” means the Act annexed to the Treaty relating to the accession of the United Kingdom to the European Economic Community signed at Brussels on 22nd January 1972;

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

“milk”, “raw milk”, “whole milk”, “semi-skimmed milk” and “skimmed milk” have the same respective meanings as in regulation No. 1411/71 of the Council of the European Communities(c);

“sale” in relation to milk, does not include sale to a milk processor for heat treatment or for an authorised treatment of equivalent effect;

“separated milk” means milk other than raw milk and whole milk.

(2) The Interpretation Act 1889(d) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

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(a) 1956 c. 30.

(b) 1972 c. 68.

(c) OJ No. L148/4 of 3.7.71 (S.E. 1971 II, p. 412).

(d) 1889 c. 63.

(3) Any reference in these regulations to regulation No. 1411/71 of the Council of the European Communities shall be construed as a reference to that regulation—

- (a) as specified in and as adapted by Article 29 of and Annex I Part II paragraph I.11 to the Act of Accession (which permit Member States to provide for an additional high fat whole milk category) and as read with Article 89.1 of the Act of Accession (which until 31st December 1975, permits the supply to consumers as whole milk of unskimmed milk with a fat content of less than 3.5 per cent.);
- (b) as replaced or amended by any subsequent directly applicable Community instrument.

#### *Delivery of separated milk*

3. No person shall deliver, or cause or permit to be delivered, on or in pursuance of any sale for human consumption any separated milk which is not semi-skimmed milk or skimmed milk delivered, in either case, as such.

#### *Enforcement*

4.—(1) The local authority of any area shall enforce and execute the provisions of these regulations within their area.

(2) In this regulation “local authority” means the council of a county or of a large burgh within the meaning of the Local Government (Scotland) Act 1947(a); and any small burgh within the meaning of that Act shall, for the purposes of these regulations, be included in the county in which it is situated.

#### *Penalties*

5. If any person contravenes or fails to comply with the foregoing provisions of these regulations he shall be guilty of an offence under these regulations.

#### *Application of various sections of the Act*

6.—(1) Without prejudice to the provisions of the Act which specifically apply in respect of regulations made thereunder section 40(1) (which relates to penalties) of the Act shall apply for the purposes of these regulations as if the reference therein to an offence against the Act included a reference to an offence against these regulations.

(2) Without prejudice to the provisions of the Act which specifically apply in respect of regulations made thereunder sections 41(2) and (5) (which relate to proceedings), 42(1), (2) and (3) (which relate to evidence of certificates of analysis), 44 (which relates to the power of a Court to require analysis by the Government Chemist) and 47 (which relates to offences in relation to warranties and certificates of analysis) of the Act shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under or taken under the Act included references to proceedings, or a prosecution as the case may be, for an offence against these regulations and in addition as if—

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(a) 1947 c. 43.

- (a) in the case of section 44(1) of the Act, the reference therein to section 41(5) of the Act included a reference to said section 41(5) as applied by these regulations; and
- (b) in the case of section 47(1) and (2) of the Act, the references therein to an offence against the Act included references to an offence against these regulations.
- (3) Section 41(4) of the Act shall apply for the purposes of these regulations as if the reference therein to section 47 of the Act included a reference to said section 47 as applied by these regulations.

*Gordon Campbell,*

One of Her Majesty's Principal  
Secretaries of State.

St. Andrew's House,  
Edinburgh.  
8th May 1973.

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#### EXPLANATORY NOTE

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

These Regulations, which apply to Scotland only, supplement EEC regulation No. 1411/71 in so far as it relates to semi-skimmed milk and skimmed milk.

The Regulations prohibit the delivery on or in pursuance of sale for human consumption of separated milk other than semi-skimmed milk or skimmed milk delivered as such.

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