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**1976 No. 1888 (S. 154)**

**FOOD AND DRUGS**

**MILK AND DAIRIES**

**The Drinking Milk (Scotland) Regulations 1976**

*Made - - - - - 9th November 1976*

*Laid before Parliament 19th November 1976*

*Coming into Operation 9th December 1976*

In exercise of the powers conferred by section 12(2)(f) of the Milk and Dairies (Scotland) Act 1914(a) and vested in me by the Reorganisation of Offices (Scotland) Act 1928(b) and the Reorganisation of Offices (Scotland) Act 1939(c), by section 56 of the Food and Drugs (Scotland) Act 1956(d) and section 56A of the Act as inserted by section 4(1) of, and paragraph 3(2)(b) of Schedule 4 to, the European Communities Act 1972(e) 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 the regulations, I hereby make the following regulations:—

*Citation and commencement*

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

*Interpretation*

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

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

“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;

“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(f), as amended (g), 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;

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(a) 1914 c. 46.

(b) 1928 c. 34.

(c) 1939 c. 20.

(d) 1956 c. 30.

(e) 1972 c. 68.

(f) 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.

(g) 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.

“local authority” means an islands or district council;

“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;

“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(a) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament, and as if these regulations and the regulations hereby revoked were Acts of Parliament.

#### *Application of the regulations*

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 local 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 under these regulations.

(2) Any person who is guilty of an offence under these regulations 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.

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

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

*Application of various sections of the Act*

9.—(1) 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 warrants 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, taken for an offence under these regulations and in addition as if—

(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 the 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.

(2) 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 the said section 47 as applied by these regulations.

*Revocation*

The Separated Milk (Scotland) Regulations 1973(a) are hereby revoked.

*Bruce Millan,*

One of Her Majesty's Principal  
Secretaries of State.

New St. Andrew's House,  
Edinburgh.  
9th November 1976.

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EXPLANATORY NOTE

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

These Regulations, which apply to Scotland 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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(a) S.I. 1973/914 (1973 II, p. 2790).

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