
STATUTORY INSTRUMENTS

1988 No. 2191 (S.213)

FOOD

MILK AND DAIRIES

The Milk (Special Designations) (Scotland) Order 1988

<i>Made</i>	- - - -	<i>14th December 1988</i>
<i>Laid before Parliament</i>		<i>19th December 1988</i>
<i>Coming into force</i>	- -	<i>1st January 1989</i>

The Secretary of State, in exercise of the powers conferred by sections 3, 6 and 14(a) of the Milk and Dairies (Amendment) Act 1922⁽¹⁾ and by sections 10 and 11 of the Milk (Special Designations) Act 1949⁽²⁾, and now vested in him⁽³⁾, and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971⁽⁴⁾, hereby makes the following Order:

PART I
GENERAL

Citation and commencement

1. This Order may be cited as the Milk (Special Designations) (Scotland) Order 1988, and shall come into force on 1st January 1989.

Interpretation

- 2.—(1) In this Order unless the context otherwise requires —
- “the Act of 1949” means the Milk (Special Designations) Act 1949;
 - “approved bactericidal agent” means a chemical agent approved by the Secretary of State;
 - “bulk container” means any container, other than a retail container;

(1) 1922 c. 54; section 3 was substituted by the Milk Act 1934 (c. 51), section 10, and amended by S.R. & O. 1939/782 and by the Milk (Special Designations) Act 1949 (c. 34), section 11(3).
(2) 1949 c. 34; see section 14(1) for a relevant definition of “Milk (Special Designations) (Scotland) Orders”.
(3) By the Reorganisation of Offices (Scotland) Act 1928 (c. 34) and the Reorganisation of Offices (Scotland) Act 1939 (c. 20)
(4) 1971 c. 62

“bulk milk” means milk which is not pre-packed;

“consumer” means any person to whom milk is supplied and who neither sells it nor uses it in the manufacture of milk products for sale;

“dealer” means a person who carries on a business which consists of or comprises the selling of milk but does not include —

- (a) a holder of a pasteuriser’s licence who sells the milk pasteurised by him by wholesale only, and only at or from the premises where the milk is pasteurised, and who sells no other milk;
- (b) a holder of a steriliser’s licence who sells the milk sterilised by him by wholesale only, and only at or from the premises where the milk is sterilised, and who sells no other milk;
- (c) a holder of a licence to treat milk by the ultra high temperature method who sells the milk so treated by him by wholesale only, and only at or from the premises where the milk is so treated, and who sells no other milk;

“dealer’s licence” means a licence authorising a dealer to use a special designation in relation to milk sold by him;

“dealer’s supplementary licence” means a licence granted to a dealer authorising the use by him of a special designation in relation to milk sold by him by retail in the area of a local authority other than the authority in whose area the premises from which the milk is sold are situated;

“existing licence” means a licence which is in force when the holder thereof applies for a licence by way of renewal thereof;

“licence” means a licence granted in accordance with the provisions of this Order;

“licence held by a retailer for a specified area” has the meaning assigned to it by section 8(2) of the Act of 1949;

“licence to treat milk by the ultra high temperature method” means a licence authorising the holder thereof to use the special designation “Ultra Heat Treated” in relation to milk treated by the ultra high temperature method by him in accordance with the provisions of Schedule 4 and sold by him by wholesale at or from the premises where it is so treated;

“local authority” means an islands or district council;

“milk” means cows’ milk, but does not include cream or separated, skimmed, dried, condensed or evaporated milk or buttermilk;

“pasteuriser’s licence” means a licence authorising the holder thereof to use the special designation “Pasteurised” in relation to milk pasteurised by him in accordance with the provisions of Schedule 2 and sold by him by wholesale at or from the premises where it is pasteurised;

“pre-packed” means packed or made up in advance in the bottle or other container in which it is to be supplied to the consumer;

“proper officer” shall be construed in accordance with section 235(3) of the Local Government (Scotland) Act 1973(5);

“raw milk” means milk which has not been treated by heat;

“retail container” means a bottle or other container which has a capacity of not more than 5 litres;

“retailer for a specified area” means the holder of a licence to which section 8 of the Act of 1949 applies;

“sell” includes offer or agree to sell or expose for sale; and “sale” shall be construed accordingly;

“selling milk by retail” has the meaning assigned to it by section 1(4) of the Act of 1949; and “milk sold by retail” shall be construed accordingly;

“selling milk by wholesale” means selling milk otherwise than by retail; and “milk sold by wholesale” shall be construed accordingly;

“specified area” means an area in which sub-section (1) of section 1 of the Act of 1949 is in operation;

“steriliser’s licence” means a licence authorising the holder thereof to use the special designation “Sterilised” in relation to milk sterilised by him in accordance with the provisions of Schedule 3 and sold by him by wholesale at or from the premises where it is sterilised.

(2) For the purposes of this Order, a person shall be deemed not to be selling milk otherwise than by wholesale if the only persons to whom he sells milk by retail are persons employed by him in, or in connection with, the production of such milk or employed by him otherwise in agriculture.

(3) Any reference in this Order to a numbered article or Schedule shall, unless the context otherwise requires, be construed as a reference to the article or Schedule so numbered in this Order.

PART II

LICENCES TO USE SPECIAL DESIGNATIONS

Licences to use special designations

3.—(1) The special designations, the use of which may be authorised by a licence granted in accordance with the provisions of this Order, are “Pasteurised”, “Sterilised”, and “Ultra Heat Treated”.

(2) Subject to the provisions of this Order, a local authority shall on application being made to them in that behalf grant a licence to the applicant authorising him to use the special designation specified in the application; and such a licence shall be in the appropriate form specified in Schedule 8 or in a form substantially to the like effect.

(3) A licence shall authorise the use of a special designation only in relation to milk sold at or from the premises mentioned in the licence and, in the case of such milk sold by retail, only in relation to milk so sold within the area of the local authority granting the licence.

(4) The use of a special designation in relation to milk sold by retail shall be authorised only by a dealer’s licence.

Application for licence

4.—(1) An application for the grant of a licence (whether by way of renewal of an existing licence or otherwise) shall be made in the case of an application —

- (a) for a pasteuriser’s licence, a steriliser’s licence or a licence to treat milk by the ultra high temperature method, to the local authority of the area in which are situated the premises where the milk in relation to which the applicant intends to use the special designation will be pasteurised, sterilised or treated by the ultra high temperature method, as the case may be;
- (b) for a dealer’s licence, to the local authority of the area in which are situated the premises at or from which the milk in relation to which the applicant intends to use the special designation will be sold; and

- (c) for a dealer's supplementary licence, to the local authority of the area in which the milk in relation to which the applicant intends to use the special designation will be sold.

(2) Every application shall be in writing, shall specify the special designation which the applicant intends to use and, in the case of an application for a pasteuriser's licence, a steriliser's licence or a licence to treat milk by the ultra high temperature method, shall state whether the applicant intends to sell any of the milk by retail.

Dealer's supplementary licence

5. A dealer's supplementary licence shall be granted by a local authority if they have satisfied themselves that the applicant has already been granted a dealer's licence (in this article and in article 8 referred to as "the principal licence") by the local authority in whose area are situated the premises from which he intends to sell milk and if those premises are the premises mentioned in the principal licence, and shall authorise only the use of the special designation the use of which is authorised by the principal licence.

Power to refuse licence

6. A local authority or the Secretary of State on appeal may refuse to grant a licence (otherwise than by way of renewal of an existing licence as to which provision is made in Part IV of this Order) to an applicant —

- (a) if they are not satisfied that his arrangements for the handling, treatment, storage and distribution of milk are such as would enable him to comply with all relevant provisions contained in any enactment relating to milk and dairies or any order (including this Order) or regulations or byelaws made thereunder; or
- (b) if they are satisfied that the applicant, by reason of having been convicted of any offence under any enactment relating to milk and dairies or any order or regulations or byelaws made thereunder, is unsuitable to hold a licence.

PART III

DURATION AND CONDITIONS OF LICENCES

Duration of licences

7.—(1) Subject to the provisions of this Order, any licence granted under this Order, or having effect as if so granted, shall remain in force until the expiry of the period of five years in which it comes or came into force, being one of the periods of five calendar years ending on 31st December in the year 1990 and in any fifth succeeding year.

(2) Where an application for the grant of a licence by way of renewal of an existing licence is not determined before the date at which the existing licence expires, that licence shall remain in force until the application is determined:

Provided that, where the local authority decide to refuse to grant such a licence, the period during which the existing licence remains in force by virtue of this paragraph shall be extended until the expiration of the period within which the holder thereof may appeal in accordance with the provisions of Part IV of this Order against the local authority's decision and, if such an appeal is made, until the appeal has been dismissed or withdrawn by the appellant or has been allowed by the Secretary of State, and, in the last case, until a licence has been issued to the appellant.

Duration of dealer's supplementary licence

8. A dealer's supplementary licence, unless suspended or revoked in accordance with the provisions of Part IV of this Order, shall remain in force for such period as the principal licence remains in force.

Conditions applying to licences

9.—(1) Every licence to use the special designation "Pasteurised" shall be subject to such of the following conditions as are applicable:—

- (a) the general conditions set out in Schedule 1;
- (b) the special conditions set out in Schedule 2.

(2) Every licence to use the special designation "Sterilised" shall be subject to such of the following conditions as are applicable:—

- (a) the general conditions set out in Schedule 1;
- (b) the special conditions set out in Schedule 3.

(3) Every licence to use the special designation "Ultra Heat Treated" shall be subject to such of the following conditions as are applicable:—

- (a) the general conditions set out in Schedule 1;
- (b) the special conditions set out in Schedule 4.

Special conditions applicable to certain licences

10. In granting a dealer's licence or a dealer's supplementary licence (whether by way of renewal of an existing licence or otherwise), a local authority may, having regard to the circumstances of the case, include in the licence a condition that the special designation the use of which is authorised by it shall be used only in relation to milk received by the dealer in retail containers and sold by him in these containers, the caps or fastenings of the containers having remained unbroken.

PART IV

REFUSAL, SUSPENSION AND REVOCATION OF LICENCES AND APPEALS ARISING THEREFROM

Power to revoke, suspend, or refuse to renew certain licences

11. Save in the case of a licence held by a retailer for a specified area and subject to the provisions of article 13, the local authority or the Secretary of State on appeal may suspend or revoke a licence or refuse to grant a licence by way of renewal of an existing licence on the ground —

- (a) of any breach of a condition thereof which is proved to the satisfaction of the local authority or the Secretary of State, as the case may be, to have been committed by the holder of the licence; or
- (b) that the holder of the licence, by reason of having been convicted of any offence under any enactment relating to milk and dairies or any order or regulations or byelaws made thereunder, is in the opinion of the local authority or the Secretary of State, as the case may be, unsuitable to hold the licence.

Power to revoke, suspend, or refuse to renew licences held by retailers for specified areas

12.—(1) Subject to the provisions of paragraph (3) of this article and of article 13, the local authority or the Secretary of State on appeal may revoke a licence held by a retailer for a specified area or refuse to grant such a licence by way of renewal of an existing licence on the ground of a breach of a condition thereof, being a condition to which section 8 of the Act of 1949 applies, if the holder of the licence either —

- (a) has been convicted of an offence under that section by virtue of the breach in question, or
- (b) has been convicted, within twelve months before the time of the breach in question or after the time of it, of an offence under the Milk and Dairies (Scotland) Acts 1914 to 1949⁽⁶⁾ (other than an offence under the said section 8) or of an offence under any order or byelaw made under any of the said Acts, and the decision of the local authority or the Secretary of State to revoke the licence or to refuse to grant a licence by way of renewal thereof as the case may be is made within twelve months of the date of the breach in question.

(2) Subject to the provisions of paragraph (3) of this article and of article 13, the local authority or the Secretary of State on appeal may suspend a licence held by a retailer for a specified area on the ground of a breach of a condition thereof:

Provided that any licence so suspended shall not be suspended for a period of more than three months by virtue of any one decision of the local authority or the Secretary of State, as the case may be, but any such period of suspension may be extended by a subsequent decision made in accordance with the provisions of this Order.

(3) A licence held by a retailer for a specified area shall not be suspended or revoked nor shall the grant of such a licence by way of renewal of an existing licence be refused on the ground of such a breach as aforesaid unless the breach is proved (in a case referred to a tribunal by virtue of the subsequent provisions of this Order) by the finding of the tribunal or (in any other case) to the satisfaction of the local authority or the Secretary of State, as the case may be; and, for the purposes of this paragraph where the holder of a licence has been convicted of an offence under section 8 of the Act of 1949 by virtue of a breach of a condition of the licence his conviction thereof shall be sufficient proof of the commission of that breach by him.

Defences against suspension, revocation, or refusal to renew licences

13.—(1) The local authority or the Secretary of State on appeal shall not suspend or revoke a licence or refuse to grant a licence by way of renewal of an existing licence on the ground of any breach of a condition thereof if the holder of the licence proves to the satisfaction of the local authority or the Secretary of State, as the case may be, that —

- (a) neither he nor any servant or agent of his did, or knew of the doing of, any act that constituted the breach or can reasonably be regarded as having been the cause or amongst the causes of it, or omitted to do, or knew of an omission to do, any act the omission whereof constituted the breach or the doing whereof can reasonably be regarded as a precaution that would have prevented it; and
- (b) if the breach was in connection with milk that had been sold to him, the special designation the use of which his licence authorised was used for the purpose of the sale to him and was so used without any breach, discoverable by the exercise of reasonable diligence on the part of himself or any servant or agent of his, of a condition of the licence to use that special designation held by the person who sold the milk to him, being a condition relating to the design, closing, fastening or marking of the containers in which the milk was sold to him.

(6) 1914 c. 46; 1922 c. 54; 1934 c. 51, 1949 c. 34

(2) The local authority or the Secretary of State on appeal shall not suspend or revoke a licence or refuse to grant a licence by way of renewal of an existing licence on the ground of a breach of a condition thereof, being a condition relating to the satisfaction by a sample of the milk to which the licence relates of any test to which the milk is required to be subjected in accordance with the provisions of this Order, unless —

- (a) in the case of any licence, there has been a breach in the case of not fewer than three such samples and no sample taken in the period intervening between the taking of the first and of the third such sample has satisfied such test, the said period being not less than 21 and not more than 28 days; or
- (b) in the case of a pasteuriser's licence, a steriliser's licence or a licence to treat milk by the ultra high temperature method, the local authority are or, as the case may be, the Secretary of State is satisfied, on a review of the results of the tests of all such samples taken in the period of twelve months immediately preceding the date on which the review is made, that the licence should be suspended or revoked or that a licence should not be granted by way of the renewal thereof, as the case may be.

Procedure as to suspension, revocation and refusal of licence

14.—(1) Where a local authority propose to suspend or revoke a licence or to refuse to grant a licence under articles 6, 11 or 12 —

- (a) the local authority shall serve on the holder of the licence or the applicant for the licence, as the case may be, a notice informing him of their proposal and the reasons therefor and of his right under the next succeeding subparagraph;
- (b) the holder of the licence or the applicant for the licence, as the case may be, may, within 21 days after the receipt of such a notice, make representations in writing to the local authority in regard to the proposal and may require the local authority to afford him an opportunity of being heard by the appropriate committee of the local authority, and the local authority shall comply with any such requirement before making their decision;
- (c) any such hearing by a committee shall be in public and the holder of the licence or the applicant for the licence, as the case may be, shall be entitled to be heard by himself or by counsel or a solicitor or other representative as he may elects and he or his representative shall be entitled to call witnesses and to cross-examine such witnesses as may be called by another; and
- (d) subject to the foregoing provisions of this paragraph, the procedure at any such hearing shall be such as may be determined by the committee.

(2) If the local authority, after complying with the provisions of the last foregoing paragraph, decide to suspend or revoke a licence or to refuse to grant a licence, they shall notify the holder of the licence or the applicant for the licence, as the case may be, of their decision and shall at the same time advise him, in writing, that he may appeal against the decision to the Secretary of State within 21 days of receiving such notification.

(3) A decision of the local authority to suspend or revoke a licence shall not have effect until 21 days after the receipt by the holder of the licence of notice thereof, and in the event of an appeal against the decision until the determination of the appeal.

Appeals

15.—(1) The holder of a licence whose licence has been suspended or revoked or an applicant to whom the local authority have refused to grant a licence (whether by way of renewal of an existing licence or otherwise) may, within 21 days of receiving notification of the local authority's decision,

appeal to the Secretary of State against the local authority's decision to suspend or revoke or to refuse the licence, as the case may be.

(2) On such an appeal being made the Secretary of State —

(a) shall notify the appellant —

(i) that he may within 21 days make representations in writing to the Secretary of State; and

(ii) where the issue is the suspension or revocation of a licence held by a retailer for a specified area or the refusal to grant a licence by way of renewal of such a licence, that he may within the like period request the Secretary of State to refer the matter to a tribunal; and

(b) where such a request is made, shall refer the matter to a tribunal; and

(c) on receipt of the tribunal's report, shall send a copy thereof to the appellant and to the local authority and before determining the appeal shall consider the report of the tribunal.

(3) On any such appeal —

(a) any reference in this Order to the doing of anything to the satisfaction of the local authority shall be treated as if the reference were to the doing of that thing to the satisfaction of the Secretary of State who in determining the appeal may, if he thinks fit, take into consideration any change of circumstances brought about since the date of the local authority's decision;

(b) the Secretary of State shall give his decision in writing and shall give reasons for his decision;

(c) the determination of the Secretary of State shall be final and the local authority shall comply therewith.

(4) An appellant may withdraw his appeal at any time by sending notice in that behalf to the Secretary of State.

(5) Where under this article any issue is referred to a tribunal, the constitution and procedure of the tribunal shall be in accordance with the provisions of Schedule 7.

PART V

MISCELLANEOUS PROVISIONS

Provisions as to sampling and testing

16. The provisions as to sampling set out in Schedule 5 shall have effect for the purpose of any provision of this Order relating to the taking of samples of milk, and the provisions of Schedule 6 as to the testing of samples of milk so taken shall have effect for the purposes of this Order.

Designated milk from England, Wales and Northern Ireland

17.—(1) Where milk is brought into Scotland from England and Wales —

(a) a licence granted under legislation having effect for the time being in England and Wales authorising the use, in relation to that milk, of a designation corresponding to a special designation prescribed by this Order shall have effect as if it had been granted under this Order; and

(b) so far as any conditions prescribed in this Order for a licence authorising the use of that special designation would relate to anything to be done before the milk enters Scotland,

they shall be deemed to be satisfied if the corresponding conditions of a licence as specified in sub-paragraph (a) above are complied with.

(2) Where milk is brought into Scotland from Northern Ireland —

- (a) a Northern Irish licence (that is to say a licence granted under legislation having effect for the time being in Northern Ireland) authorising the sale of that milk under a designation corresponding to a special designation prescribed by this Order shall have effect as if it had been granted under this Order; and
- (b) so far as any conditions prescribed in this Order for a licence authorising the use of that special designation would relate to anything to be done before that milk enters Scotland, they shall be deemed to be satisfied if the corresponding conditions attaching to that Northern Irish licence are complied with.

Powers of local authorities as to supplementary licences

18. Nothing in this Order shall authorise a local authority to whom an application for the grant of a dealer's supplementary licence is made, or who have granted such a licence, to exercise outwith their own area any powers conferred on them by any enactment relating to milk and dairies or any order (including this Order) or regulations made thereunder.

Transitional provisions

19.—(1) Proceedings taken in connection with appeals, and other things done, in relation to a licence granted under the Milk (Special Designations) (Scotland) Order 1980(7) and not completed before this Order comes into force may be continued under the corresponding provisions of this Order.

(2) Any licence to use a special designation granted under the Milk (Special Designations) (Scotland) Order 1980 and in force immediately before the coming into force of this Order shall continue in force and have effect as if it had been granted under and subject to the provisions of this Order.

Revocations

20. The Orders specified in Schedule 10 are hereby revoked.

St Andrew's House,
Edinburgh
14th December 1988

Sanderson of Bowden
Minister of State, Scottish Office

SCHEDULE 1

Article 9

GENERAL CONDITIONS SUBJECT TO WHICH LICENCES ARE GRANTED

1. The arrangements for the handling, treatment, storage and distribution of milk by the holder of the licence shall be such as to enable him to comply with the requirements of all relevant provisions contained in any enactment relating to milk and dairies and of any order (including this Order), regulations or byelaws made thereunder.

2. The milk to which the licence relates shall be kept apart from all other milk.

3. Any container into which the milk is put shall be sterilised by steam or by a solution containing an approved bactericidal agent on the premises to which the licence relates on each occasion before the container is used for the milk:

Provided that this paragraph shall not apply to non-returnable containers which the local authority are satisfied are sterile, or to bottles cleansed in bottle washing machines on the premises in which they are to be filled with milk.

4. Such parts of any plant or apparatus as come into contact with the milk shall be sterilised either by steam, or by water at a temperature of not less than 82.2degC. or by a solution containing an approved bactericidal agent on each occasion before the plant or apparatus is used for the milk.

5. Subject to the provisions of this Order, the holder of the licence shall not for the purpose of the sale or advertisement of the milk to which the licence applies refer to it by such description (other than the special designation authorised by the licence) as is calculated to suggest that it is tested, approved or graded by any competent person.

6. The holder of the licence shall keep in relation to the milk to which the licence applies accurate records of —

- (a) the quantities of such milk purchased and sold and of the names and addresses of the persons from whom the milk was purchased and to whom it was sold otherwise than by retail;
- (b) the quantities of milk delivered to or from the premises to which the licence applies, other than by way of purchase or sale, and of the names and addresses of the persons, other than consumers, from or to whom such deliveries were made; and shall retain such records for a period of twelve months from the date of any transaction to which the records relate.

7. Without prejudice to any provisions as to inspection or the taking of samples contained in any enactment relating to milk and dairies or any order or regulations or byelaws made thereunder, any person duly authorised by the Secretary of State or the local authority may —

- (a) inspect the processes of handling and treatment and the arrangements for the storage and distribution of the milk to which the licence applies;
- (b) take samples of the milk free of charge; and
- (c) inspect any records which the holder of the licence is required by this Order to keep; and the holder of the licence shall afford him all necessary facilities for these purposes.

8.—(1) Every retail container shall, immediately after the milk has been put into it, be securely closed.

(2) Where such retail container is a bottle, it shall be closed with a cap overlapping the lip of the bottle.

9. Every licence holder who receives raw milk or bulk milk which has, for the purposes of transportation, already been heat treated shall as soon as practicable submit it to heat treatment in

accordance with this Order or despatch it in milk tankers or other suitable containers, whether by sale or otherwise, to an establishment for heat treatment.

10. Milk which has been heat treated in another Member State of the European Economic Community shall not be accepted for further heat treatment unless it is accompanied by a certificate prescribed by the Importation of Milk (Scotland) Regulations 1988⁽⁸⁾.

11. Milk which is transferred from one container to another prior to heat treatment shall be so treated as soon as practicable after the first container has been opened.

12. Raw milk shall not be accepted for heat treatment unless —

- (a) over the preceding two months not less than two samples of the producer's raw milk have been taken each month, the samples have been submitted to a plate count test the results of which have been recorded and the geometric average of these results is not more than 100,000 per ml.; or (b) the licence holder has purchased the milk as bulk milk which complies with the requirements of sub-paragraph (a) above and with a written warranty to that effect.

13. Raw milk which is not heat treated within 36 hours of its admission to the heat treatment establishment shall not be subjected to heat treatment unless —

- (a) the holder of the licence has, in the handling and storage of the milk, taken steps to ensure that a sample of that milk taken and submitted to a plate count test achieves a result of not more than 200,000 per ml.; and
- (b) a sample is taken of that milk, the sample is submitted to a plate count test and the result is recorded.

14. In any proceedings for a breach of paragraph 12 or 13 above, evidence of a sample taken in accordance with Schedule 5 or of a plate count test carried out as prescribed in Part I of Schedule 6 shall be preferred to evidence of a sample taken or of a plate count test carried out, respectively, by any other method.

15. The holder of the licence shall retain for a period of not less than three months —

- (a) from the date of further heat treatment any certificate referred to in paragraph 10 above;
- (b) any warranty referred to in paragraph 12(b) above;
- (c) any records made in compliance with paragraphs 12(a) and 13(b) above.

⁽⁸⁾ S.I. 1988/1814

SCHEDULE 2

Article 9

SPECIAL CONDITIONS SUBJECT TO WHICH LICENCES AUTHORISING THE USE, OF THE SPECIAL DESIGNATION “PASTEURISED” ARE GRANTED

Part I

CONDITIONS APPLYING TO A PASTEURISER'S LICENCE

A.

Conditions applicable when pasteurised milk is produced from raw milk or from bulk milk which has been heat treated for transport

1. The milk shall be pasteurised, that is to say —

- (a) it shall be heated to and maintained for a period of at least 30 minutes at a temperature of not less than 62.8degC. and not more than 65.6degC., and immediately after the termination of the said period shall be cooled to a temperature of not more than 6degC.; or
- (b) it shall be heated to and maintained for a period of at least 15 seconds at a temperature of not less than 71.7degC. and not more than 78.3degC., and immediately after the termination of the said period shall be cooled to a temperature of not more than 6degC. and the apparatus in which the milk is pasteurised shall be approved by the local authority; or
- (c) it shall be heated to and maintained at such temperatures for such period as may be specified by the local authority with the approval of the Secretary of State and subsequently cooled to a temperature of not more than 6degC.

2.—(1) The temperature to which milk is treated in accordance with paragraph 1 of this Part of this Schedule shall be automatically controlled.

(2) Where the milk is treated by a continuous flow method and is pasteurised in accordance with —

- (a) the provisions of sub-paragraph (b) of paragraph 1 of this Part of this Schedule; or
- (b) a method approved by the Secretary of State under sub-paragraph (c) of the said paragraph; the apparatus shall be provided with a device which is capable of automatically diverting the flow of any milk which is not retained at a temperature of at least 71.7degC., or at any other temperature which may be specified in terms of paragraph 1(c) above, and with a device which will automatically record when the flow of milk is being diverted and when the automatic flow diversion device is not in operation. Each record shall be marked with the date on which it was made and shall be preserved for a period of not less than three months.

(3) Indicating and recording thermometers shall be installed in suitable places in the apparatus so as respectively to indicate and record the period of time for, and the temperature to, which the milk is heated when pasteurised in accordance with sub-paragraph (a), or any batch process approved under sub-paragraph (c), of paragraph 1 of this Part of this Schedule, or the temperature to which milk is heated when pasteurised in accordance with sub-paragraph (b), or any continuous flow process approved under sub-paragraph (c), of the said paragraph 1.

(4) The temperature to which the milk is cooled shall be indicated by a thermometer installed in the apparatus and shall be recorded by a recording thermometer.

3. Indicating and recording thermometers shall be marked in graduations not greater than 1 degC., adequately spaced to give clear readings, and each record shall be marked with the date on which it was made and shall be preserved for a period of not less than three months.

4. Milk shall only be pasteurised in premises named in the licence.

5. Immediately after the milk is cooled, the holder of the licence shall, on the premises where the milk was pasteurised, put it into retail containers or unventilated bulk containers as required, each of which shall be marked or labelled in accordance with the Milk Labelling (Scotland) Regulations 1983(9).

6. Where the milk has been put into retail containers, it shall not be removed from these containers or the caps or fastenings broken before delivery to the consumer.

7.—(1) A sample of the milk taken in accordance with Schedule 5 at the heat treatment establishment after pasteurisation shall satisfy the plate count test and the coliform test prescribed in Parts I and II of Schedule 6. The sample shall be deemed to satisfy the coliform test if the coliform count is less than 1 per ml. The sample shall be deemed to satisfy the plate count test if the plate count is not greater than 30,000 per ml.

(2) A sample of the milk taken in accordance with Schedule 5 at the heat treatment establishment after pasteurisation shall after incubation for 5 days at 6degC. satisfy the plate count test prescribed in Part I of Schedule 6. The sample shall be deemed to satisfy the test if the plate count is not greater than 100,000 per ml.

(3) A sample of milk taken in accordance with Schedule 5 after pasteurisation and before delivery to the consumer shall satisfy the phosphatase test prescribed in Part III of Schedule 6. The phosphatase test shall be deemed to be satisfied if the milk gives a reading of 10 ug. or less of p-nitrophenol/ml. of milk.

(4) A sample of milk taken in accordance with Schedule 5 after pasteurisation and after it leaves the heat treatment establishment but before delivery to the consumer shall satisfy the coliform test prescribed in Part II of Schedule 6. The sample shall be deemed to satisfy the coliform test if the coliform count is less than 100 per ml.

B.

Additional conditions applicable when pasteurised milk is
produced from bulk milk which has been heat treated for transport

8.—(1) Where any bulk milk which has, for the purposes of transportation, been heat treated in another heat treatment establishment is to be subjected to pasteurisation in accordance with this Order, the requirements specified in the following sub-paragraphs shall apply.

(2) Milk shall not be accepted for pasteurisation unless it has a temperature not exceeding 6degC. on admission to the heat treatment establishment and is retained at such a temperature until pasteurisation.

(3) The holder of the licence shall check and record the temperature of the milk on admission to the heat treatment establishment and immediately before pasteurisation.

(4) For purposes of identifying sources of supply which exceed a plate count of 100,000 per ml., in order to exclude such milk from pasteurisation in accordance with this Order, the holder of the licence shall —

- (a) before pasteurisation take a sample of the milk in accordance with Schedule 5;
- (b) submit it to the plate count test prescribed in Part I of Schedule 6; and
- (c) record the result.

(5) The holder of the licence shall retain for a period of not less than three months the records made in compliance with sub-paragraphs (3) and (4) above.

(9) [S.I. 1983/938](#), as amended by [S.I. 1985/1068](#)

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Part II

CONDITIONS APPLYING TO A DEALER'S LICENCE AND A DEALER'S SUPPLEMENTARY LICENCE

1. Paragraphs 6 and 7(3) and (4) of Part I of this Schedule shall apply to a dealer's licence and a dealer's supplementary licence as they apply to a pasteuriser's licence.
2. The holder of the licence shall use the special designation only in relation to milk in relation to which the special designation was used in connection with its sale or delivery to him or in relation to which he is authorised by a pasteuriser's licence to use the special designation.
3. Where the holder of a dealer's licence or a dealer's supplementary licence is not the holder of a pasteuriser's licence, he shall deliver the milk to the consumer only in the containers in which he received it, the caps or fastenings of such containers remaining unbroken.
4. Every retail container shall be marked or labelled in accordance with the Milk Labelling (Scotland) Regulations 1983.
5. Where the holder of the licence takes milk from a bulk container and puts it into another bulk container, the second container shall be closed as soon as possible after the opening of the first container.

SCHEDULE 3

Article 9

SPECIAL CONDITIONS SUBJECT TO WHICH LICENCES AUTHORISING THE USE OF THE SPECIAL DESIGNATION "STERILISED" ARE GRANTED

Part I

CONDITIONS APPLYING TO A STERILISER'S LICENCE

1. The milk, having been filtered or clarified, and homogenised, shall be sterilised in the following manner, that is to say, it shall be heated to and maintained at such a temperature, not less than 100degC., for such a period as to ensure that it will comply with the turbidity test prescribed in Part IV of Schedule 6.
- 2.—(1) The milk shall be treated by heat as aforesaid in capped bottles so that on completion of the treatment the bottles are hermetically sealed.
(2) Every such bottle shall be marked or labelled in accordance with the Milk Labelling (Scotland) Regulations 1983.
3. The apparatus in which the milk is sterilised shall be approved by the local authority.
4. Thermometers and pressure gauges shall be inserted in suitable places in the apparatus so as to indicate the temperature to which the milk is raised and the pressure to which it is subjected.
5. Milk shall only be sterilised in premises named in the licence.
6. The bottles shall remain sealed until delivery to the consumer.
- 7.—(1) A sample of the milk taken in accordance with Schedule 5 at the heat treatment establishment after sterilisation shall satisfy the plate count test prescribed in Part I of Schedule 6. The sample shall be deemed to satisfy the test if the plate count is not greater than 100 per ml.

(2) A sample of the milk taken in accordance with Schedule 5 after sterilisation and before delivery to the consumer shall satisfy the turbidity test prescribed in Part IV of Schedule 6. The sample shall be deemed to satisfy the test if it gives a filtrate showing no sign of turbidity.

Part II

CONDITIONS APPLYING TO A DEALER'S LICENCE AND A DEALER'S SUPPLEMENTARY LICENCE

1. Paragraphs 6 and 7(2) of Part I of this Schedule shall apply to a dealer's licence and a dealer's supplementary licence as they apply to a steriliser's licence.
2. The holder of the licence shall use the special designation "Sterilised" only in relation to milk in relation to which the said special designation was used in connection with its sale or delivery to him or in relation to which he is authorised by a steriliser's licence to use the said special designation.

SCHEDULE 4

Article 9

SPECIAL CONDITIONS SUBJECT TO WHICH LICENCES AUTHORISING THE USE OF THE SPECIAL DESIGNATION "ULTRA HEAT TREATED" ARE GRANTED

Part I

CONDITIONS APPLYING TO A LICENCE TO TREAT MILK BY THE ULTRA HIGH TEMPERATURE METHOD

A. Conditions applicable whether or not the treatment includes the direct application of scheme

1. The milk shall be treated by the ultra high temperature method, that is to say retained at a temperature of not less than 135degC. for not less than one second.
2. Any apparatus in which the milk is to be heated to and maintained at a temperature of not less than 135degC. shall be provided with a device which will automatically divert the flow of any milk which is not raised to the authorised temperature and automatically record each operation of the device.
- 3.—(1) Such indicating and recording thermometers as the local authority shall reasonably consider necessary shall be installed in suitable places in the apparatus in which the milk is treated by the ultra high temperature method so as to indicate the temperatures to which the milk is heated.
(2) The records of recording thermometers shall be marked with graduations adequately spaced to give clear readings, and they shall be dated and shall be preserved for a period of not less than three months.
4. Milk shall only be treated by the ultra high temperature method in premises named in the licence.
- 5.—(1) Milk which is treated by the ultra high temperature method shall immediately after such treatment be put into the sterile containers in which it is to be supplied to the consumer. Such containers shall be filled and sealed at the premises at which the treatment has been carried out with such aseptic precautions as will ensure the protection of the milk from risk of contamination and shall remain sealed until delivery to the consumer.

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(2) Every container in which milk treated by the ultra high temperature method is transported, exposed or offered for sale shall be so closed and securely fastened, either with a cap overlapping the lip of the container or in some other suitable manner approved by the local authority, that the container is airtight.

(3) Every retail container shall be marked or labelled in accordance with the Milk Labelling (Scotland) Regulations 1983.

6.—(1) A sample of the milk taken in accordance with Schedule 5 at the heat treatment establishment after treatment by the ultra high temperature method shall satisfy the plate count test prescribed in Part I of Schedule 6. The sample shall be deemed to satisfy the test if the plate count is not greater than 100 per ml.

(2) A sample of milk taken in accordance with Schedule 5 after treatment by the ultra high temperature method and after it leaves the heat treatment establishment but before delivery to the consumer shall satisfy the plate count test prescribed in Part I of Schedule 6. The sample shall be deemed to satisfy the plate count test if the plate count is not greater than 1,000 per ml.

B.

Additional conditions applicable when the treatment includes the direct application of steam

7. In the following paragraphs of this Schedule —

“input temperature” means the temperature of the milk immediately before the application of the steam;

“operational change” means any change in the site, layout or construction of equipment for treating milk by the ultra high temperature method by the direct application of steam, or any change in the steam supply or in the particular temperature used for treating the milk as aforesaid;

“output temperature” means the temperature of the vapour or of the milk in either case at the point of leaving the evaporative cooling expansion vessel.

8. Any treatment of milk by the ultra high temperature method by the direct application of steam shall be so carried out that both the percentage of the milk consisting of milk fat and the percentage of the milk consisting of milk solids other than milk fat are the same after the treatment as before it.

9.—(1) Any equipment for treating milk as aforesaid shall be provided with control apparatus which, when calibrated as required by sub-paragraph (2) of this paragraph, will ensure compliance with the last preceding paragraph providing no operational change is made or takes place.

(2) Before the equipment is used for treating milk as aforesaid either initially or after any operational change is made or takes place, the control apparatus shall be calibrated in relation to the particular temperature to be used for treating milk as aforesaid so as to determine the control temperatures (being the input temperature, the output temperature and the difference between them which, if respectively maintained, will ensure compliance with the last preceding paragraph providing no operational change is made or takes place).

(3) A note of the control temperatures currently applying and of the particular temperature used for treating milk as aforesaid when those control temperatures were determined shall be kept with such equipment and be available at all reasonable times for inspection by any person duly authorised in that behalf.

10. The holder of the licence shall forthwith notify the local authority of any operational change which is made or takes place.

11.—(1) For each occasion on which such equipment is in operation —

- (a) the input temperature and the output temperature shall be indicated by indicating thermometers; and
 - (b) either both of these temperatures or one of them and the difference between them shall be continuously recorded on charts marked with graduations at intervals of 0.5degC. adequately spaced to give clear readings.
- (2) The records on such charts shall be dated and shall be preserved for a period of not less than three months.
- 12.** Any treatment of milk as aforesaid or calibration of control apparatus in compliance with paragraph 9(2) of this Part of this Schedule shall be carried out only with dry saturated steam.
- 13.** In connection with treatment of milk as aforesaid, apparatus shall be provided which automatically and continuously ensures that water is separated from the steam and does not enter the milk heating equipment.
- 14.** The treatment shall be so carried out as to secure that no foreign matter other than steam enters the milk and that there is no adulteration of the milk at the commencement or termination of the treatment or at any time when the treatment is interrupted.
- 15.** The water used for generating the steam which is to be applied to the milk —
- (a) shall be wholesome; and
 - (b) may be treated with any water treatment compound necessary to make it wholesome and with any boiler feed water treatment compound specified in Schedule 9, but otherwise shall not be treated with any water treatment compound.
- 16.** The equipment for treating the milk shall be so constructed that the steam can be sampled immediately before it is applied to the milk and the holder of the licence shall permit any person duly authorised by the local authority so to sample the steam.

Part II

CONDITIONS APPLYING TO A DEALER'S LICENCE AND A DEALER'S SUPPLEMENTARY LICENCE

- 1.** Paragraphs 5 and 6(2) of Part I of this Schedule shall apply to a dealer's licence and a dealer's supplementary licence as they apply to a licence to treat milk by the ultra high temperature method.
- 2.** The holder of the licence shall use the special designation "Ultra Heat Treated" only in relation to milk in relation to which the said special designation was used in connection with its sale or delivery to him or in relation to which he is authorised by a licence to treat milk by the ultra high temperature method to use the said special designation.

SCHEDULE 5

Article 16

PROVISIONS AS TO THE TAKING, IDENTIFICATION AND TRANSPORTATION OF SAMPLES

- 1.** Sampling shall be carried out in the following manner:—
- (a) where the milk is in retail containers, by taking one of the containers which, save in a case to which paragraph 3 of this Schedule applies, shall be delivered intact to the testing laboratory in accordance with the provisions of paragraph 4 of this Schedule;

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- (b) where the milk is in bulk containers, by taking the sample from well below the surface of the milk after the milk has been thoroughly stirred, the instruments used for stirring and sampling the milk having been sterilised before use, and, save in a case to which paragraph 3 of this Schedule applies, putting the sample into a bottle which shall immediately thereafter be stoppered, the bottle and its stopper having been sterilised before use;
 - (c) where milk from each bulk container of a consignment is sampled, the volume of the sample taken from each such container shall be proportionate to the volume of milk in that container and the samples so taken shall then be mixed so as to constitute a sample of the consignment.
2. Save in a case to which the next succeeding paragraph applies, the person taking the sample shall, immediately the sample has been taken, affix to the vessel containing the sample a label bearing a distinctive mark.
3. Where a sample of milk, in relation to which the special designation “Pasteurised” or “Sterilised” is being used, is taken in or from a container bearing the name of premises mentioned in a licence held by a retailer for a specified area, the person taking the sample shall, after the sample has been taken, then and there divide it into two parts each of which shall be put into a bottle which shall immediately be stoppered, the bottle and its stopper having been sterilised before use, and which shall be sealed and marked or labelled with a distinctive mark, and he shall —
- (a) forward one part to the holder of the said licence together with a notice informing him that he intends to have part of the sample tested in accordance with the provisions of Schedule 6; and
 - (b) forward one part to the testing laboratory in accordance with the provisions of paragraph 4 of this Schedule.
- 4.—(1) Immediately after it has been marked or labelled, the vessel containing the sample which is to be tested shall be transferred to a box or case having a tightly fitting lid and lined throughout with insulating material, which box or case shall be despatched to the testing laboratory as soon as practicable.
- (2) Where there is delay in despatch to the laboratory, such additional measures as are practicable, including the use of an adequate quantity of suitable refrigerant within the box or case, shall be taken to prevent the temperature of the sample from rising.
- (3) Any sample of raw milk, bulk milk heat treated for transport or pasteurised milk which is to be subjected to the plate count test or coliform test prescribed in Parts I and II of Schedule 6 shall, during its transportation to the testing laboratory, be retained at a temperature of not less than 0degC. and not more than 5degC.
- (4) With the vessel containing the sample there shall be sent to the testing laboratory a note bearing the distinctive mark with which the vessel is marked or labelled, the time at and date on which the sample was taken, and, if these particulars are known, the time at and date on which the milk from which the sample was taken was produced.

SCHEDULE 6

Article 16

TESTING OF SAMPLES

Part I

THE PLATE COUNT TEST FOR RAW MILK, BULK MILK HEAT TREATED FOR TRANSPORTATION, PASTEURISED MILK, STERILISED MILK AND ULTRA HEAT TREATED MILK

General

1. In testing samples of milk for bacterial count the following paragraphs of this Part of this Schedule shall be complied with.

Treatment of sample before testing

2. On arrival at the testing laboratory samples of milk shall be treated according to the following provisions.

- (a) Any samples of raw milk, bulk milk heat treated for transportation or “Pasteurised” milk taken at the heat treatment establishment and intended for immediate testing. All samples of milk shall be examined as soon as possible after arrival at the testing laboratory. If a sample is not examined immediately it shall be kept at a temperature not higher than 5degC. until examined, provided that any sample on which the test is not begun within 24 hours of taking such sample shall be discarded.
- (b) Any sample of “Pasteurised” milk taken at the heat treatment establishment and intended for incubation before testing. On arrival at the testing laboratory the sample shall be placed unopened in an incubator at a temperature of 6degC. +/-0.5degC. and shall be retained at that temperature for a period of 5 days, provided that, where these incubation requirements are not begun immediately after the arrival of the sample at the laboratory, the sample shall be kept at a temperature not higher than 5degC. until the start of the prescribed incubation period. Any sample on which the incubation requirements are not begun within 24 hours of taking such sample shall be discarded.
- (c) Any sample of “Sterilised” or “Ultra Heat Treated” milk taken at the heat treatment establishment. On arrival at the testing laboratory the sample shall be placed unopened in an incubator at a temperature of 30degC. +/-0.5degC. and shall be retained at that temperature for a period of 15 days.
- (d) Any sample of “Ultra Heat Treated” milk taken after it leaves the heat treatment establishment and before delivery to the consumer. On arrival at the testing laboratory the sample shall be placed unopened in an incubator at a temperature of 30degC. +/-0.5degC. and shall be retained at that temperature for a period of 24 hours.

Culture medium

3. Bacterial count. The medium to be used shall be yeastrel milk agar, either compounded in the laboratory or prepared in accordance with the manufacturer’s directions from a granular desiccated medium and shall have the following composition:—

Yeastrel	3.0 grams
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Peptone	5.0 grams
Agar	15.0 grams
Milk (fresh or spray-dried, skim or whole milk)	10.0 ml.
Distilled water	to 1 litre

Where the medium is compounded in the laboratory it shall be filtered through a pulp-paper filter.

The medium shall be sterilised either by autoclaving at 121degC. for 20 minutes or in a steamer for 30 minutes on three successive days.

The final reaction of the medium at room temperature shall be pH 7.2.

Dilutions

4. Quarter-strength Ringer's solution shall be used. The composition of full-strength Ringer's solution shall be —

Sodium chloride	9.00 grams
Potassium chloride	0.42 grams
Anhydrous calcium chloride	0.24 grams
Sodium bicarbonate	0.20 grams
Distilled water	1,000 ml.

Add 1 part of the above solution to 3 parts of distilled water. Fill into test tubes or bottles and sterilise by autoclaving at 121°deg. for 15 minutes. The quantity to be filled into the container before sterilisation must be predetermined to allow for evaporation losses during sterilisation.

Alternatively, sterile tubes and bottles may be filled aseptically with measured quantities of sterile quarter-strength Ringer's solution.

Technique of tests

5.—(1) The sample shall be mixed thoroughly by shaking and the container opened with aseptic precautions. For the colony plate count the dilutions specified in sub-paragraphs (2) to (5) below shall be used. For each sample being tested not less than two plates shall be prepared. The Petri plates shall be incubated as specified in sub-paragraphs (2) to (5) below.

(2) Any sample of raw milk, bulk milk heat treated for transportation or "Pasteurised" milk taken at the heat treatment establishment and intended for immediate testing. For raw milk and milk which has been heat treated elsewhere, 1 ml. of 1 in 1,000 dilution shall be plated. For milk pasteurised on the premises, 1 ml. of 1 in 100 dilution shall be plated. All plates shall be incubated at 30degC. +/-0.5degC. for 72 hours.

(3) Any sample of "Pasteurised" milk taken at the heat treatment establishment and intended for incubation before testing. 1 ml. of 1 in 1,000 dilution shall be plated and the plates incubated at 21degC. +/-0.5degC. for 25 hours.

(4) Any sample of "Sterilised" or "Ultra Heat Treated" milk taken at the heat treatment establishment. 1 ml., undiluted, shall be plated and the plates incubated at 30degC. +/-0.5degC. for 48 hours.

(5) Any sample of “Ultra Heat Treated” milk taken after it leaves the heat treatment establishment and before delivery to the consumer. 1 ml. of 1 in 10 dilution shall be plated and the plates incubated at 30degC. +/-0.5degC. for 48 hours.

Examination of cultures

6. All colonies (including “pin-point” colonies) on each plate shall be counted and the arithmetic mean count obtained. To facilitate counting it is desirable to use a counting chamber, a suitable lens and a tally counter. The result of the count shall be recorded as the number of bacteria per ml. and shall be to the nearest 10, 100 or 1,000 according to whether a dilution of 1 in 10, 1 in 100 or 1 in 1,000 has been used.

General precautions

7.—(1) The sterility of the media and apparatus shall be tested by carrying out a blank test using sterile water in place of milk when each batch of samples is examined.

(2) Before the dilutions are prepared, the milk shall be thoroughly mixed by inverting the bottle 25 times.

(3) Each dilution shall be thoroughly mixed without vigorous shaking.

(4) In the preparation of the dilutions a separate sterile pipette shall be used for each dilution and for transferring the dilution to the Petri plate or bile salt broth.

(5) The pipettes shall be straight-sided, of the “blow-out” type and plugged with cotton wool.

(6) Not more than 15 minutes shall elapse between the dilution of the milk and its admixture with the agar medium or bile salt broth.

(7) The melted agar shall be cooled to 45degC. before it is poured into the Petri plates.

(8) If Petri plates are stacked in the incubator, so far as possible no stack shall consist of more than six Petri plates.

(9) The temperature of the incubator shall be frequently checked by means of a thermometer conforming to the British Standards Institution’s specification and adjusted if necessary.

(10) Bile salt broth tubes showing any air in the Durham tube shall not be used to carry out the test.

(11) Distilled water—water prepared with a glass still or water of equal quality shall be used.

Part II

THE COLIFORM TEST FOR PASTEURISED MILK

General

1. In testing samples of milk for the presence of coliform bacteria the following paragraphs of this Part of this Schedule shall be complied with.

Treatment of sample before testing

2. All samples of milk shall be examined as soon as possible after arrival at the testing laboratory. If a sample is not examined immediately on arrival at the testing laboratory, it shall be kept at a temperature not higher than 5degC. until examined, provided that any sample on which the test is not begun within 24 hours of taking such sample shall be discarded.

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Culture medium

3. Coliform test. The medium to be used shall be bile salt lactose broth, either compounded in the laboratory or prepared in accordance with the manufacturer's directions from a granular desiccated medium and shall have the following composition:—

Peptone	20.0 grams
Bile salts	5.0 grams
Sodium chloride (A.R.)	5.0 grams
Lactose (A.R.)	10.0 grams
Distilled water	to 1 litre
Brom-cresol purple (1.6%)	2.5 ml.

The medium shall be tubed in 5 ml. quantities in 150 x 16 mm. tubes provided with a rimless Durham tube (50 x 6.5 mm.) and sterilised either by autoclaving at 121degC. for 15 minutes or in a steamer for 30 minutes on three successive days.

The final reaction of the medium at room temperature shall be pH 7.2.

Dilutions

4. Quarter-strength Ringer's solution shall be used. The composition of full-strength Ringer's solution shall be —

Sodium chloride	9.00 grams
Potassium chloride	0.42 grams
Anhydrous calcium chloride	0.24 grams
Sodium bicarbonate	0.20 grams
Distilled water	1,000 ml.

Add 1 part of the above solution to 3 parts of distilled water. Fill into test tubes or bottles and sterilise by autoclaving at 121degC. for 15 minutes. The quantity to be filled into the container before sterilisation must be predetermined to allow for evaporation losses during sterilisation.

Alternatively, sterile tubes and bottles may be filled aseptically with measured quantities of sterile quarter-strength Ringer's solution.

Technique of tests

5.—(1) The sample shall be mixed thoroughly by shaking and the container opened with aseptic precautions.

(2) In testing samples of milk taken at the heat treatment establishment after pasteurisation 1 ml. of milk shall be added to each of three tubes of the culture medium.

(3) In testing samples of milk taken after pasteurisation and after it leaves the heat treatment establishment but before delivery to the consumer 1 ml. of 1 in 100 dilution shall be added to each of three tubes of the culture medium.

(4) The coliform cultures shall be incubated at 30degC. +/-0.5degC. for 72 hours.

Examination of cultures

6. The culture tubes shall be examined for the production of acid and gas after the required period of incubation. Those tubes showing acid and gas production in the Durham tube shall be considered to be positive.

Interpretation

7.—(1) If acid and gas production is absent from two of the three tubes the portion of the sample which has been tested shall be presumed to contain no less than one coliform.

(2) The result of the test shall be recorded as less than 1 per ml. where 1 ml. of milk has been used as the inoculum, and as less than 100 per ml. where 1 ml. of 1 in 100 dilution of the milk has been used as the inoculum.

General precautions

8.—(1) The sterility of the media and apparatus shall be tested by carrying out a blank test using sterile water in place of milk when each batch of samples is examined.

(2) Before the dilutions are prepared, the milk shall be thoroughly mixed by inverting the bottle 25 times.

(3) Each dilution shall be thoroughly mixed without vigorous shaking.

(4) In the preparation of the dilutions a separate sterile pipette shall be used for each dilution and for transferring the dilution to the bile salt broth.

(5) The pipettes shall be straight-sided, of the “blow-out” type and plugged with cotton wool.

(6) Not more than 15 minutes shall elapse between the dilution of the milk and its admixture with the bile salt broth.

(7) The temperature of the incubator shall be frequently checked by means of a thermometer conforming to the British Standards Institution’s specification and adjusted if necessary.

(8) Bile salt broth tubes showing any air in the Durham tube shall not be used to carry out the test.

(9) Distilled water -water prepared with a glass still or water of equal quality shall be used.

Part III

THE PHOSPHATASE TEST FOR PASTEURISED MILK

Treatment of sample before testing

1. The sample of milk shall be examined as soon as possible after arrival at the testing laboratory. If it is not examined immediately on arrival at the testing laboratory, it shall be kept at a temperature not higher than 5degC. until examined. The sample shall be raised to room temperature immediately before being tested.

Precautions

2. The following precautions shall be taken:—

- (a) a sample which shows evidence of taint or souring shall not be tested;
- (b) the test shall not be carried out in direct sunlight;
- (c) all glassware shall be clean immediately before use;
- (d) a fresh pipette shall be used for each sample; pipettes shall not be contaminated with saliva;

- (e) distilled water shall be used throughout.

Reagents

- 3.—(1) Reagents of analytical quality shall be used.
- (2) The buffer-substrate solution shall be prepared as follows:—
- (a) buffer solution: 3.5 g. of anhydrous sodium carbonate and 1.5 g. of sodium bicarbonate shall be dissolved in distilled water, and made up to one litre;
 - (b) substrate: Disodium p-nitrophenyl phosphate. The solid substrate shall be kept in a refrigerator;
 - (c) buffer-substrate solution: 0.15 g. of the substrate shall be placed in a 100 ml. measuring cylinder or graduated flask, and made up to 100 ml. with the buffer solution. The solution shall be stored in a refrigerator and protected from light. It shall give a reading of less than the standard marked 10 on the comparator disc A.P.T.W. or A.P.T.W.7 when viewed in transmitted light through a 25 mm. cell in the “all purposes” comparator, distilled water being used for comparison. The solution shall not be used for more than one week.

Apparatus

4. The following apparatus shall be used:—
- (a) a Lovibond “all purposes” comparator complete with stand for work in reflected light;
 - (b) a Lovibond comparator disc A.P.T.W. or A.P.T.W.7;
 - (c) two fused glass cells, 25 mm. depth;
 - (d) a water bath or incubator capable of being maintained at 37.5degC. +/-0.5degC.;
 - (e) a pipette to deliver 5.0 ml.;
 - (f) a supply of 1.0 ml. straight-sided pipettes of an accuracy equal to N.P.L. Grade B;
 - (g) a 1,000 ml. graduated flask;
 - (h) a 100 ml. measuring cylinder or 100 ml. graduated flask;
 - (i) a supply of 150 x 16 mm. test tubes conforming to B.S.3218: 1982, 150/16, with rubber stoppers to fit.

Care of apparatus

- 5.—(1) After use, each test tube shall be emptied, rinsed in water, well washed in hot water containing soda, rinsed in warm water, rinsed in distilled water and finally dried.
- (2) If after treatment in accordance with sub-paragraph (1) hereof a test tube does not appear to be clean, the treatment shall be repeated with the addition that after being rinsed in warm water it shall be soaked in 50 per cent. commercial hydrochloric acid and then rinsed again in warm water before being rinsed in distilled water and finally dried.
- (3) New glassware shall be cleaned and free from contamination from substances which may interfere with the test.
- (4) Glassware used for the test shall not be used for any other purpose and shall be kept apart from all other apparatus in the laboratory.

Method of carrying out the test

6. 5 ml. of the buffer-substrate solution shall be transferred to a test tube using a pipette and the test tube shall be stoppered and brought to a temperature of 37degC. +/-0.5degC. 1 ml. of the milk to

be tested shall be added, the test tube stopper replaced and the contents well mixed by shaking. The test tube shall then be incubated for exactly two hours at 37degC. +/-0.5degC. One blank prepared from boiled milk of the same type as those undergoing the test shall be incubated with each series of samples. (Where the sample consists of highly coloured milk, such as homogenised milk or milk from Channel Island cows, a separate blank of such milk shall be prepared.) After incubation the test tube shall be removed from the water bath and its contents shall be well mixed. The blank shall be placed on the left hand ramp of the stand and the test sample on the right. Readings shall be taken in reflected light by looking down on to the two apertures with the comparator facing a good source of daylight (preferably north light). If artificial light is needed for matching, a "daylight" type of illumination must be used. The disc shall be revolved until the test sample is matched. Readings falling between two standards shall be recorded by affixing a plus or minus sign to the figure for the nearest standard.

Part IV

THE TURBIDITY TEST FOR STERILISED MILK

Treatment of sample before testing

1. The sample of milk shall be examined at anytime after delivery to the testing laboratory but shall be at room temperature when the test is begun.

Reagent

2. Ammonium sulphate A.R. shall be used.

Apparatus

3. The following apparatus shall be provided:—

- (a) a supply of conical flasks, 50 ml. capacity;
- (b) a supply of graduated cylinders, 25 ml. capacity;
- (c) a supply of 150 x 16 mm. test tubes conforming to B.S.3218:1982, 150/16;
- (d) a supply of filter funnels, 6 cm. diameter;
- (e) two beakers, 400 ml. capacity;
- (f) a supply of Whatman filter papers, 12.5 cm. No. 12.

Method of carrying out the test

4. The test shall be carried out in the following manner:—

- (a) weigh 4 +/-0.1 g. of ammonium sulphate A.R. into a 50ml. conical flask. Measure out 20 +/-0.5 ml. of the milk sample, and pour into the conical flask. Ensure that the ammonium sulphate dissolves by shaking for three minutes. Leave for not less than five minutes and then filter through a folded paper (Whatman 12.5 cm. No. 12) into a test tube. When not less than 5 ml. of a clear filtrate have collected, place the tube in a beaker of water, which is kept boiling, and keep it therein for five minutes. Transfer the test tube to a beaker of cold water;
- (b) when the tube is cool, examine the contents for turbidity by moving the tube in front of an electric light shaded from the eyes of the observer, and comparing each tube with a control tube prepared as directed in the next succeeding paragraph.

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Control tubes

5. A sample of laboratory-sterilised milk shall be prepared by heating milk for at least twenty minutes after it has reached boiling point in a vessel placed in a boiling water bath. Control tubes shall be prepared by taking a sample of laboratory-sterilised milk and subjecting it to the test procedure detailed in sub-paragraph (a) of the last foregoing paragraph.

SCHEDULE 7

Article 15(5)

TRIBUNAL

Constitution of tribunal

1.—(1) A tribunal shall consist of a Chairman and two other members.

(2) The Chairman shall be appointed by the Secretary of State and shall not be an Officer of the Crown or a person associated with the milk trade or a member or officer of any local authority.

(3) One member shall be a person appointed by the Secretary of State, as being representative of the milk distributive trade.

(4) One member shall be a person appointed by the Secretary of State, as being representative of the consumers' interest.

2.—(1) The Chairman shall hold office for three years unless his appointment is terminated by the Secretary of State before expiry of that period, and shall be eligible for reappointment.

(2) The Chairman may resign office by notice in writing to the Secretary of State.

(3) If the Chairman is prevented by sickness or any other reason from acting on any reference to the tribunal, the Secretary of State may appoint an independent person to act as chairman on that reference.

Procedure

3. Where in accordance with this Order any issue as to the revocation or suspension of a licence or refusal of grant of a licence by way of renewal of such licence is required to be referred to a tribunal by the Secretary of State, he shall forthwith inform the Chairman of the tribunal of the reference to the tribunal and of the name and address of the appellant. He shall send to the Chairman and to the members of the tribunal copies of the notice of decision to refuse, suspend or revoke the licence, as the case may be, and of any representations made by the appellant.

4. The Chairman, on being informed of the reference to the tribunal, shall without delay fix a convenient date and place for the hearing of the reference.

5.—(1) The retailer shall have the right to be heard by the tribunal by himself or by counsel, or solicitor, or other representative as he may elect.

(2) The local authority may be represented by any person instructed in that behalf.

6.—(1) At the hearing of the reference the tribunal shall give an opportunity to the retailer, or to his representative, to address the tribunal and call witnesses. The representative of the local authority may cross-examine the retailer, if he elects to give evidence, and any witnesses called by him.

(2) The tribunal shall give the representative of the local authority an opportunity to address the tribunal and to call witnesses. The retailer, or his representative, may cross-examine any witnesses called by the local authority.

- ## Article 3

FORM APASTEURISER'S AND STERILISER'S LICENCES*The Milk (Special Designations)*
(Scotland) Order 1988

The District Council of the District
Islands Area of
hereby authorise _____ of _____ to use
the special designation "Pasteurised" in relation to milk pasteurised by him
at _____ and sold by wholesale at or from these premises.

This licence is not transferable, and is subject to the conditions prescribed in the Milk (Special Designations) (Scotland) Order 1988 and unless suspended or revoked will remain in force until

Dated this _____ day of _____ 19__.

Proper Officer.

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Licence authorising the use of the special designation "Ultra Heat Treated"

The District Council of the District Area of
Islands Islands
hereby authorise _____ of _____ to use
the special designation "Ultra Heat Treated" in relation to milk which has been treated by the ultra
high temperature method at _____ in accordance with the conditions
prescribed in the Milk (Special Designations) (Scotland) Order 1988 and sold by wholesale at or from
these premises.

This licence is not transferable and is subject to the conditions prescribed in the Milk (Special Designations) (Scotland) Order 1988 and unless suspended or invoked will remain in force until _____

Dated this _____ day of _____ 19 ____

Proper Officer.

FORM C DEALER'S LICENCE The Milk (Special Designations) (Scotland) Order 1988

Dealer's licence authorising the use of the special designation "Pasteurised"(a)

The District Council of the District Area of
Islands Islands
hereby authorise _____ of _____ to use
the special designation "Pasteurised" in relation to milk sold at or from _____
and [pasteurised by him there] [purchased by him from a person who is
authorised by a licence to use and has used the special designation "Pasteurised" in relation to that
milk in connection with its sale or delivery to him.](*)

This licence is not transferable, and is subject to the conditions prescribed in the Milk (Special Designations) (Scotland) Order 1988 and unless suspended or revoked will remain in force until the thirty-first day of December 19 ____

[This licence is subject to the condition that the holder shall not use the said special designation otherwise than in relation to milk sold by him in the containers in which he received it, the caps or fastenings of the containers having remained unbroken](+).

This licence does not authorise the holder to use the said special designation in relation to milk sold by retail outside the area of the Local Authority.

Dated this _____ day of _____ 19 ____

Proper Officer.

(*) Delete whichever words are not applicable.

(+) Delete if not applicable.

(a) A similar form with appropriate modifications is to be used for licences authorising the use of the special designation "Sterilised".

FORM D The Milk (Special Designation) Order 1988

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Dealer's licence authorising the use of the special designation "Ultra Heat Treated"

The ~~District~~ Council of the ~~District~~ Area of
~~Islands~~
hereby authorise _____ of _____ to use
the special designation "Ultra Heat Treated" in relation to milk sold at or from _____
and [treated by him by the ultra high temperature method there] [purchased
by him from a person who is authorised to use and has used the special designation "Ultra Heat Treated"
in relation to that milk in connection with its sale or delivery to him](*)).

This licence is not transferable and is subject to the conditions prescribed in the Milk (Special Designations) (Scotland) Order 1988 and unless suspended or revoked will remain in force until the thirty-first day of December 19__.

This licence is subject to the condition that the holder shall not use the said special designation otherwise than in relation to milk sold by him in the containers in which he received it, the caps or fastenings of the containers having remained unbroken.

This licence does not authorise the holder to use the said special designation in relation to milk sold by retail outside the area of the Local Authority.

Dated this _____ day of _____ 19__.

Proper Officer.

(*) Delete whichever words are not applicable.

FORM EDEALER'S SUPPLEMENTARY LICENCES
1988

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Dealer's supplementary licence authorising the use of the special designation "Pasteurised" (a)
of _____ being the holder of a
dealer's licence dated _____ and granted by the District Council of the
Islands
District Area of _____ (hereinafter referred to as the principal licence)
Islands
authorising him to use the special designation "Pasteurised", in relation to milk sold by him from the
premises specified in the principal licence, is hereby authorised by the District Council of the
Islands
District Area to use the said designation in relation to milk from the said
Islands
premises sold by him by retail in their area.

This dealer's supplementary licence is subject to the conditions prescribed in the Milk (Special Designations) (Scotland) Order 1988 and to the conditions prescribed in the principal licence, and unless suspended or revoked will remain in force for such period as the principal licence remains in force.

[This licence is subject to the condition that the holder shall not use the said special designation otherwise than in relation to milk sold by him in the containers in which he received it, the caps or fastenings of the containers having remained unbroken.](†).

Dated this _____ day of _____ 19 ____.

Proper Officer.

(†) Delete if not applicable.

(a) Similar forms with appropriate modifications are to be used for licences authorising the use of the special designations "Sterilised" and "Ultra Heat Treated".

SCHEDULE 9

Schedule 4, paragraph B15

PERMITTED BOILER FEED WATER TREATMENT COMPOUNDS

Potassium alginate
Sodium alginate
Potassium carbonate
Sodium carbonate
Sodium hydroxide
Sodium dihydrogen orthophosphate
di Sodium hydrogen orthophosphate
tri Sodium orthophosphate
penta Sodium triphosphate
Sodium polyphosphates
tetra Sodium diphosphate
Sodium silicate
Sodium metasilicate

Sodium sulphate
 Magnesium sulphate
 Neutral or alkaline sodium sulphite
 Unmodified starch
 Sodium aluminate
 Polyoxyethylene glycol (minimum molecular weight 1,000).

SCHEDULE 10

Article 20

REVOCATIONS

<i>Orders revoked</i>	<i>References</i>
The Milk (Special Designations) (Scotland) Order 1980	S.I. 1980/1866
The Milk (Special Designations) (Scotland) Amendment (No. 2) Order 1983	S.I. 1983/1527
The Milk (Special Designations) (Scotland) Amendment Order 1986	S.I. 1986/788
The Milk (Special Designations) (Scotland) Amendment Order 1988	S.I. 1988/1816

EXPLANATORY NOTE

(This note is not part of the Order)

This Order re-enacts with modifications the Milk (Special Designations) (Scotland) Order 1980 (“the 1980 Order”), as amended, and makes provision for the implementation of Council Directive [85/397/EEC](#) (OJ No. L226, 24.8.1985, p.13) on health and animal health problems affecting intra-Community trade in heat-treated milk.

The Order prescribes special designations (“Pasteurised”, “Sterilised” and “Ultra Heat Treated”) for use in relation to the sale of milk and makes provision for the grant, refusal, suspension and revocation of licences authorising such use.

In addition to drafting amendments, the Order makes the following changes of substance:—

- (a) the time within which a person affected by a local authority’s proposal to suspend or revoke a licence or to refuse to grant a licence can exercise specified rights of making representations, appealing to the Secretary of State or requesting that the matter be referred to a tribunal has been extended from 14 days to 21 days (regulations 14 and 15);
- (b) in addition to the requirement to keep records of the quantities of milk purchased and sold, the holder of the licence is required to keep records of milk delivered to or from the

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premises to which the licence applies, other than by way of purchase or sale (Schedule 1, paragraph 6);

- (c) as pre-conditions for heat treatment of raw milk it is required that —
 - (i) over the preceding two months not less than two samples of the producer's milk have been taken each month and have satisfied a prescribed average plate count;
 - (ii) in the case of raw milk not heat treated within 36 hours of arrival at the heat treatment establishment, steps have been taken to ensure a prescribed maximum plate count is not exceeded; and
 - (iii) the results of such plate counts are recorded (Schedule 1, paragraphs 12 and 13);
- (d) in any proceedings for a breach of the pre-conditions referred to in paragraph (c) above, evidence of a sample taken or of a plate count carried out in accordance with Schedule 5 or Part I of Schedule 6, respectively, is to be preferred to evidence of a sample taken or of a plate count carried out by any other method (Schedule 1, paragraph 14);
- (e) in specified circumstances, a sample of milk to be subjected to a plate count or coliform test is required to be transported at a prescribed temperature (Schedule 5, paragraph 4(3));
- (f) a sample of milk taken in specified circumstances is required to satisfy a new plate count test (Schedule 2, Part I, paragraph A7, Schedule 3, Part I, paragraph 7, Schedule 4, Part I, paragraph A6 and Schedule 6, Part I);
- (g) the provisions of the 1980 Order dealing with use of the special designations "Premium" and "Standard" have not been re-enacted, since all licences to use these special designations expired as at 31st July 1983.

Information as to British Standards referred to in this Order can be obtained by post from the British Standards Institution at Milton Keynes or from any of the Institution's sales outlets.