

1990 No. 607

FOOD

LABELLING, DESCRIPTIONS, ETC

**The Milk and Milk Products (Protection of Designations)
Regulations 1990**

<i>Made</i> - - - -	<i>12th March 1990</i>
<i>Laid before Parliament</i>	<i>21st March 1990</i>
<i>Coming into force</i>	<i>11th April 1990</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by sections 7, 118 and 119 of the Food Act 1984(a) and now vested in them(b), and the Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(c) for the purposes of section 2(2) of the European Communities Act 1972(d) in relation to the common agricultural policy of the European Economic Community, acting jointly, in exercise of the powers conferred by the said section 2(2), and of all other powers enabling them in that behalf, hereby make the following Regulations after consultation in accordance with section 118(6) of the said Act of 1984 with such organisations as appear to them to be representative of interests substantially affected by the Regulations:—

Title and commencement

1. These Regulations may be cited as the Milk and Milk Products (Protection of Designations) Regulations 1990 and shall come into force on 11th April 1990.

Offence, penalties and enforcement

2.—(1) If any person contravenes article 3 of Council Regulation (EEC) No. 1898/87(e) on the protection of designations used in marketing of milk and milk products, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2000.

(2) Each food and drugs authority shall enforce and execute these Regulations in its area.

Defence

3. In any proceedings for an offence against these Regulations in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that, being a person whose business it is to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

(a) 1984 c. 30; section 132(1) contains a definition of “the Ministers” relevant to the exercise of the statutory powers under which these Regulations are made.

(b) In the case of the Secretary of State for Health by virtue of S.I. 1988/1843.

(c) S.I. 1972/1811.

(d) 1972 c. 68.

(e) OJ No. L182, 3.7.87, p 36.

Application of various provisions of the Food Act 1984

4.—(1) Subject to paragraph (2) of this regulation, the following provisions of the Food Act 1984 shall apply for the purposes of these Regulations as if references therein to proceedings, or a prosecution, under or taken or brought under that Act included references to proceedings, or a prosecution, as the case may be, taken or brought for an offence under these Regulations—

- (a) section 95(5) and (6) (which relates to prosecutions);
- (b) section 97(1), (2) and (3) (which relates to evidence of analysis);
- (c) section 99 (which relates to the power of a court to require analysis by the Government Chemist);
- (d) section 100 (which relates to a contravention due to some person other than the person charged);
- (e) section 102(2) (which relates to the conditions under which a warranty may be pleaded as a defence);
- (f) section 103 (which relates to offences in relation to warranties and certificates of analysis).

(2) Section 99 of the Food Act 1984 shall apply for the purposes of these Regulations as if the reference therein to section 95(6) of that Act included a reference to that subsection as applied by paragraph (1) of this regulation.

Amendment of the Food Labelling Regulations 1984

5. Schedule 7 to the Food Labelling Regulations 1984(a) shall be amended by substituting for the entry therein relating to the word “milk” or any other word or description which implies that the food being described contains milk and for the immediately following entry relating to the word “milk” together with the corresponding conditions applying thereto the following entries:—

In column 1 “ (words and descriptions)	In column 2 (conditions)
The word “milk” or any other word or description which implies that the food being described contains milk.	Shall not be used as part of the name of a food which contains the milk of an animal other than a cow, unless— (a) (i) such milk has all the normal constituents in their natural proportions, and (ii) the word or description is accompanied by the name of that animal; or (b) (i) such milk has been subjected to a process or treatment, and (ii) the word or description is accompanied by the name of that animal and an indication of that process or treatment; or (c) the word or description is used in accordance with any regulations made, or having effect as if made, under the Act or any order having effect as if contained in regulations so made.
The word “milk”.	Shall not be used as the name of an ingredient where the ingredient is the milk of an animal other than a cow, unless— (a) the word is accompanied by the name of the animal; and (b) the use of the word as the name of the ingredient complies in all other respects with these regulations.

(a) S.I. 1984/1305, to which there are amendments not relevant to these Regulations.

Repeals and revocations

6. The Act and Regulations specified in the first and second columns of the Schedule to these Regulations are hereby repealed or revoked to the extent specified in relation thereto in the third column of that Schedule.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 5th March 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

6th March 1990

Kenneth Clarke
Secretary of State for Health

12th March 1990

Peter Walker
Secretary of State for Wales

SCHEDULE REPEALS AND REVOCATIONS

Regulation 6

(1)	(2)	(3)
<i>Measures repealed or revoked</i>	<i>References</i>	<i>Extent of repeal or revocation</i>
The Skimmed Milk with Non-Milk Fat Regulations 1960	S.I. 1960/2331	Regulations 4, 5(2) and 6.
The Ice Cream Regulations 1967	S.I. 1967/1866	Regulation 7(1)(ii).
The Margarine Regulations 1967	S.I. 1967/1867	Regulations 8(a) and 9(3)(a).
The Food Act 1984	c. 30	Section 36(1)(c). In section 48, subsections (1) and (2), in subsection (3) the words "and 'imitation cream' means" onwards, and subsection (4).

EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations, which apply to England and Wales only, and come into force on 11th April 1990, provide for the enforcement of Council Regulation (EEC) No. 1898/87 on the protection of designations used in the marketing of milk and milk products.

The Council Regulation provides, *inter alia*, for—

- (a) the definition of the terms “milk” and “milk products” and the reservation of certain designations (cream, butter, etc.) to the latter (article 2 of and the Annex to the Council Regulation);
- (b) a prohibition on the use of those designations for any product other than those referred to in Article 2, save in respect of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product (article 3.1 of the Council Regulation); and
- (c) a prohibition, in respect of any product other than those described in Article 2, on the use of any label etc., advertising, or presentation which claims, implies or suggests that the product is a dairy product (article 3.2 of the Council Regulation).

These Regulations

- (a) prescribe offences and penalties in respect of article 3 of the Council Regulation (regulation 2(1));
- (b) designate enforcement authorities (regulation 2(2));
- (c) provide a defence for advertisers acting in the ordinary course of business (regulation 3); and
- (d) introduce consequential amendments (including repeals and revocations) to the Food Act 1984 and certain other regulations (regulations 5 and 6, and the Schedule) and
- (e) make ancillary provisions (regulation 4).

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