
STATUTORY INSTRUMENTS

1995 No. 1086

The Dairy Products (Hygiene) Regulations 1995

PART VIII

ENFORCEMENT, SUPERVISION AND PENALTIES

Enforcement and supervision

16.—(1) Subject to paragraph (2) below, each approving authority shall enforce and execute these Regulations within its area.

(2) The Minister shall enforce and execute these Regulations in relation to any registered production holding and, in relation to the sale of any raw cows' milk which is drinking milk, any farm premises or any processing establishment which comprises part of any farm premises.

(3) In relation to any registered production holding, farm premises or processing establishment referred to in paragraph (2) above, the Minister shall carry out such inspection and supervision of those premises and any sampling, analysis and examination of any raw cows' milk which is drinking milk as the Minister may consider necessary to ensure that the requirements of these Regulations are complied with.

(4) In relation to any approved dairy establishment within its area, each approving authority shall carry out such inspection and supervision of that establishment and any sampling, analysis and examination of any dairy products as that authority may consider necessary to ensure that the requirements of these Regulations are complied with.

Information to be provided by approving authorities

17. Every approving authority shall provide the Minister with such information relating to the execution of its duties under these Regulations as the Minister may from time to time require.

Offences and penalties

18.—(1) If—

- (a) a person (other than an approving authority or the Minister) contravenes any provision of these Regulations; or
- (b) the occupier of any production holding or dairy establishment fails to take all reasonable steps to secure the compliance by any person employed by him or any person admitted to that production holding or dairy establishment with any provision of these Regulations,

he shall be guilty of an offence and shall be liable—

- (i) on summary conviction, to a fine not exceeding the statutory maximum; or
- (ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or to both.

(2) No prosecution for such an offence shall commence after the expiry of—

- (a) three years from the commission of the offence; or

(b) one year from its discovery by the prosecutor;
whichever is the earlier.

Authorisations to derogate

- 19.** The approving authority may authorise derogation from the requirements as to—
- (a) automatic sealing in the case of limited production specified in paragraph 2 of section A of Part II of Schedule 2 and paragraph 4 of Schedule 9, in accordance with paragraph (a) of Chapter V of Annex B and paragraph 3 of Chapter III of Annex C of Council Directive 92/46;
 - (b) equipment specified in paragraph 7(1) of section A of Part II of Schedule 2, in accordance with paragraph (f) of Chapter V of Annex B of Council Directive 92/46;
 - (c) times and temperatures specified in paragraph 1 of Part 1 of Schedule 5, in accordance with paragraph B(1) of Chapter I of Annex C of Council Directive 92/46;
 - (d) temperature for milk-based products specified in paragraph 2 of Schedule 7 and paragraph 1 of Part I of Schedule 8, in accordance with paragraph A(2) of Chapter III of Annex A of Council Directive 92/46;
 - (e) use of working areas, instruments and equipment specified in paragraph 4 of Section A of Part III of Schedule 2, in accordance with paragraph A(3) of Chapter II of Annex B of Council Directive 92/46.

Application of various sections of the Act

20.—(1) The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and, unless the context otherwise requires, any reference in them to the Act shall be construed as a reference to these Regulations—

- (a) section 2 (extended meaning of “sale” etc.);
- (b) section 3 (presumption that food is intended for human consumption);
- (c) section 20 (offences due to fault of another person);
- (d) section 21 (defence of due diligence);
- (e) section 30(8) (which relates to documentary evidence);
- (f) section 33 (obstruction etc. of officers);
- (g) section 36 (offences by bodies corporate); and
- (h) section 44 (protection of officers acting in good faith).

(2) Section 5(6) (appointment of a person who is not an officer) of the Act shall apply in relation to an appointment by a food authority for the purposes of these Regulations as it applies in relation to matters arising under the Act.

(3) Section 8(3) (which makes presumptions in the case of batches of food) of the Act shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.

(4) Section 9 (inspection and seizure of suspected food) of the Act shall apply to food which it is an offence to sell under these Regulations as it applies to food which fails to comply with food safety requirements.