



Food Act 1984

1984 CHAPTER 30

PART II

MILK, DAIRIES AND CREAM SUBSTITUTES

Milk and dairies

32 Meaning of “dairy”, “dairy farm” etc.

(1) In the following provisions of this Act—

(a) “dairy”—

(i) includes any farm, cowshed, milking house, milk store, milk shop or other premises from which milk is supplied on or for sale, or in which milk is kept or used for purposes of sale or for the purposes of manufacture into butter, cheese, dried milk or condensed milk for sale, or in which vessels used for the sale of milk are kept, but

(ii) does not include a shop from which milk is supplied only in the properly closed and unopened vessels in which it is delivered to the shop, or a shop or other place in which milk is sold for consumption on the premises only;

(b) “dairy farm”—

(i) means any premises (being a dairy) on which milk is produced from cows, but

(ii) does not include any part of any such premises on which milk is manufactured into other products unless the milk produced on the premises forms a substantial part of the milk so manufactured;

(c) “dairy farmer” means a dairyman who produces milk from cows; and

(d) “dairyman” includes an occupier of a dairy, a cowkeeper, and a purveyor of milk.

(2) If any question arises under paragraph (b)(ii) of subsection (1) whether the milk produced on a farm or other premises forms a substantial part of the milk that is

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manufactured into other products on that farm or on those premises, that question shall be determined by the Minister.

33 Milk and Dairies Regulations.

- (1) The Ministers may make regulations, called “Milk and Dairies Regulations”, providing—
- (a) for the inspection of cattle on dairy farms;
 - (b) for the inspection of dairies, and of persons in or about dairies who have access to the milk, or to the churns or other milk vessels;
 - (c) with respect to the lighting, ventilation, cleansing, drainage and water-supply of dairies;
 - (d) for securing the cleanliness of churns and other milk vessels and appliances and for prohibiting, subject to prescribed exceptions, the use of churns, (whether by the persons to whom they belong or other persons) otherwise than as containers for milk, where the churns are in use for the purposes of the business of a dairyman;
 - (e) for prescribing the precautions to be taken for protecting milk against infection or contamination;
 - (f) for preventing danger to health from the sale of infected, contaminated or dirty milk, and in particular for prohibiting the supply or sale of milk suspected of being infected;
 - (g) for imposing obligations on dairymen and their employees in regard to cases of infectious illness;
 - (h) for regulating the cooling, storage, conveyance and distribution of milk;
 - (j) with respect to the labelling, marking or identification, and the sealing or closing, of churns and other vessels used for the conveyance of milk, the labelling of vessels in which milk is sold or offered or exposed for sale or delivered, and the display of the vendor’s name and address on any stall, or any cart, barrow or other vehicle, from which milk is sold or delivered;
 - (k) in cases where no express provision is made by this Act, for prohibiting or restricting—
 - (i) the addition of any substance to milk, or the abstraction from milk of fat or any other constituent,
 - (ii) the sale of milk to which any such addition, or from which any such abstraction, has been made, or which has been otherwise artificially treated;
 - (l) for prohibiting or restricting, subject to prescribed exceptions, the sale for human consumption, as milk of any specified description, of milk containing less than a specified quantity of any specified normal constituent;
 - (m) for requiring, subject to prescribed exceptions, cream or separated milk to be subjected to a specified treatment before being sold for human consumption;
 - (n) for prohibiting, subject to prescribed exceptions, the sale for human consumption of milk obtained from cows milked—
 - (i) at any stage of a journey to or from a dairy farm,
 - (ii) at a slaughterhouse or knacker’s yard, or
 - (iii) in any market or other place where cattle are collected for the purposes of sale or showing, whether or not the market or place is registered in pursuance of Milk and Dairies Regulations as a dairy farm;

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- (o) for requiring, subject to prescribed exceptions, any milk to which regulations in force under paragraph (n) apply to be stained or otherwise treated for the purposes of identification.
- (2) In subsection (1)—
 - (a) “prescribed exceptions” means such exceptions as may be allowed by or under Milk and Dairies Regulations; and
 - (b) except in paragraph (o). “milk” means milk intended for sale or sold for human consumption, or intended for manufacture into products for sale for human consumption.
- (3) Paragraph (m) of subsection (1), so far as it relates to cream, shall be without prejudice to the power of the Ministers under section 4 to make regulations applying to cream, but regulations made under paragraph (j), paragraph (k) or paragraph (l) of that subsection shall not apply in relation to cream in so far as they are made for any purpose for which regulations relating to cream may be made under section 4.
- (4) Milk and Dairies Regulations may be general regulations or regulations limited to a particular area.

34 Registration.

- (1) Milk and Dairies Regulations—
 - (a) may provide for the registration of persons carrying on, or proposing to carry on, the trade of a dairyman and for the registration of dairies, and for prohibiting any person from carrying on that trade unless he and any premises used by him as a dairy are duly registered; and
 - (b) shall provide for the registration by the Minister of dairy farms and of persons carrying on, or proposing to carry on, the trade of a dairy farmer.
- (2) Regulations made for the purposes of this section may make special provision—
 - (a) for the registration of premises used temporarily as dairies or dairy farms, and of the occupiers of such premises;
 - (b) for the removal from the register of such premises and occupiers at the expiry of the period for which the registration is effected.
- (3) Part I of Schedule 2 has effect, subject to subsection (5), with respect to refusing or cancelling the registration of dairymen.
- (4) Subject to subsection (5), regulations made for the purposes of paragraph (b) of subsection (1) shall provide in accordance with Part II of Schedule 2 for dealing with the refusal and cancellation of any such registration as is mentioned in that paragraph.
- (5) Schedule 2 does not apply to registration in pursuance of regulations made by virtue of subsection (2), or to persons registered or applying to be registered under them.

35 Sale of milk from diseased cows.

- (1) A person is guilty of an offence who—
 - (a) sells, or offers or exposes for sale, for human consumption, or
 - (b) uses in the manufacture of products for sale for human consumption,

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the milk of any cow which to his knowledge has given tuberculous milk, or is suffering from emaciation due to tuberculosis, or from tuberculosis of the udder or any other disease of cows to which this section applies.

- (2) In proceedings under this section, the defendant shall be deemed to have known that a cow had given tuberculous milk, or was suffering as mentioned above, if he could with ordinary care have ascertained the fact.
- (3) The diseases of cows to which this section applies are those listed in Schedule 3 and any other disease to which the provisions of this section are extended by Milk and Dairies Regulations.

36 Adulteration.

- (1) A person is guilty of an offence—
 - (a) who adds any water or colouring matter, or any dried or condensed milk or liquid reconstituted from it, to milk intended for sale for human consumption;
 - (b) who sells, or offers or exposes for sale, or has in his possession for the purpose of sale, for human consumption, any milk to which any addition has been made in contravention of paragraph (a);
 - (c) who sells, or offers or exposes for sale, under the designation of milk, any liquid in the making of which any dried or condensed milk has been used.
- (2) For the purposes of paragraph (b) of subsection (1), a person shall be deemed to retain the possession of milk which is deposited in any place for collection until it is actually collected.
- (3) Nothing in subsection (2) shall be taken as prejudicing the defence available under section 81(4) to a person charged with an offence in respect of a sample of milk taken after the milk has left his possession.
- (4) The treatment of milk by the application of steam shall not be treated for the purposes of this section as the making of an addition of water to that milk in contravention of the foregoing provisions of this section if—
 - (a) Milk (Special Designation) Regulations under section 38 are in force prescribing a special designation in relation to milk subjected to that treatment; and
 - (b) that treatment is carried out in accordance with the conditions prescribed by those regulations as the conditions subject to which licences authorising the use of that special designation are granted; and
 - (c) those conditions include a condition 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 that treatment as before it.

37 Appointment of veterinary inspectors.

The functions of veterinary inspectors under any enactments relating to milk or to dairies shall, in accordance with directions given by the Minister, be discharged by veterinary inspectors appointed for the purpose by him under section 5 of the ^{M1}Board of Agriculture Act 1889.

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Marginal Citations

M1 1889 c. 30.

Special designations of milk, and their use

38 Milk (Special Designation) Regulations.

- (1) Provision may be made regulations, to be made by the Ministers and called “Milk (Special Designation) Regulations”—
 - (a) for prescribing, in relation to milk of any description, such designation (a “special designation”) as the Ministers consider appropriate; and
 - (b) for the granting of licences to producers and sellers of milk authorising the use of a special designation, and for prescribing the periods for which and the conditions subject to which licences, or licences of any particular class, are to be granted under the regulations.
- (2) Provision made by such regulations for the granting of licences authorising the use of a special designation shall be for the granting of them by the following—
 - (a) as respects licences authorising the use of a special designation of raw milk by the producer of the milk, the Minister;
 - (b) as respects other licences, either the Minister or county councils, food and drugs authorities or local authorities, as may be provided by the regulations.
- (3) Part I of Schedule 4 has effect with respect to the provision by such regulations of—
 - (a) the revocation or suspension of licences authorising the use of a special designation on the ground of a breach of condition of the licence;
 - (b) procedure in connection with decisions to revoke or suspend such licences or to refuse grants of such licences.
- (4) The conditions prescribed by such regulations subject to which licences may be granted may include conditions as to the payment of fees.

39 Restrictions.

- (1) A person is guilty of an offence who for the purpose of the sale or advertisement of any milk uses a special designation in any manner calculated to suggest that it refers to that milk, unless he holds a licence authorising the use of that designation in connection with that milk.

For the purpose of a sale or advertisement of milk as, or as part of, a meal or refreshments, a special designation may be used by a person who does not hold a licence authorising the use of that designation in connection with the milk if—

- (a) the milk is milk bought by him; and
 - (b) that designation was used for the purpose of the sale of milk to him.
- (2) A person is guilty of an offence who, for the purpose of the sale or advertisement of any milk, refers to that milk by any such description, not being a special designation, as is calculated falsely to suggest—
 - (a) that there is in force a licence authorising the use of a special designation in connection with that milk; or

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- (b) that the milk is tested, approved or graded by any competent person; or
 - (c) that the cows from which the milk is derived are free from the infection of tuberculosis or of any other disease.
- (3) In any proceedings taken under subsection (2) it rests on the person charged to prove the truth of any suggestion which, in the court's opinion, his acts or conduct, as proved by the prosecution, are or is calculated to convey.
- (4) Where there has been a breach of a condition subject to which a licence authorising the use of a special designation is granted, but the licence has not been revoked or suspended, the breach shall not be treated as rendering the use of the designation unauthorised for any of the purposes of this section or of any other provision of this Act.
- (5) Section 47 applies for the interpretation of the references in this section to selling milk, but as if the definition of milk in that section were omitted.

Compulsory use of special designations in specified areas, and licences for specified areas

40 Special designations: retail sales.

- (1) The use of a special designation is obligatory for the purpose of all sales of milk by retail for human consumption (other than catering sales) where the place of sale is in an area in which this subsection is in operation under the following provisions of this Part in that behalf, and subject to this Part.
- (2) An area in which subsection (1) is in operation as there mentioned is in this Part, and in Schedule 4, referred to as "a specified area".
- (3) Notwithstanding that the place of sale is not in a specified area, the use of a special designation is obligatory also for the purpose of a sale of milk by retail for human consumption (other than a catering sale) if—
- (a) the milk is delivered from an establishment, whether in or outside a specified area; and
 - (b) there is carried on at that establishment a business of selling milk which includes any sales for the purpose of which the use of a special designation is obligatory under subsection (1).
- (4) Subsections (1) and (3) do not apply to the selling of milk as mentioned in those subsections by a producer of milk from cows to persons—
- (a) employed by him in or in connection with such production, or
 - (b) employed by him otherwise in agriculture,
- if he does not engage in any other selling of milk as mentioned in those subsections.
- (5) A person who sells milk without the use of a special designation under a sale for the purpose of which the use of a special designation is obligatory by virtue of this section is guilty of an offence.
- (6) Section 47 applies for the interpretation of this section.

41 Special designations: catering.

- (1) This section applies—

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- (a) to catering sales; and
 - (b) to sales of milk to a person who carries on a business which consists of or comprises making catering sales (in this section called “a caterer”).
- (2) Subject to this Part, a catering sale made in a specified area—
- (a) is lawful (unless it is for any reason unlawful apart from this subsection) if the caterer bought the milk under a sale for the purpose of which a special designation was used, or if he holds a licence authorising him to use a special designation in connection with the milk, whether the designation is used for the purpose of the catering sale or not, but
 - (b) otherwise shall be unlawful.
- (3) Subject to this Part, on a sale of milk to a caterer, being a sale for the purpose of which the use of a special designation would be obligatory by section 40 if it were a sale by retail, the use of such a designation is obligatory, except where—
- (a) the caterer buys the milk with a view to subjecting it to a process to which milk is required to be subjected as a condition of the use of a special designation in connection with it, and he is the holder of a licence authorising him to use that designation; or
 - (b) the caterer buys the milk for the purposes of a business of his as a milk dealer or a manufacturer of milk products other than his business as a caterer.
- (4) A person is guilty of an offence—
- (a) who makes a catering sale which is unlawful under subsection (2); or
 - (b) who sells milk without the use of a special designation under a sale for the purpose of which the use of a special designation is obligatory under subsection (3).
- (5) A person is not guilty of an offence under subsection (3) if at the time of the sale in question he had reasonable cause to believe that the conditions specified in paragraph (a) or paragraph (b) of that subsection were satisfied as to that sale or that the buyer was not a caterer.
- (6) Section 47 applies for the interpretation of this section.

42 Special designations: exemption.

- (1) Notwithstanding anything in subsection (1) or subsection (3) of section 40, or in section 41(3), selling milk as mentioned in those subsections without the use of a special designation is permissible if done with the Minister’s consent.
- (2) The Minister may give consents for the purposes of this section—
- (a) either generally as respects selling milk as mentioned in those subsections or restricted to a particular retailer or establishment or otherwise, and
 - (b) either unconditionally or subject to conditions,
- as may appear to him to be requisite to meet any circumstances in which use of a special designation which would be obligatory under those subsections apart from the consent appears to him to be for the time being not reasonably practicable.
- (3) A catering sale made in a specified area is not unlawful under section 41(2) if the milk was sold to the caterer with consent given by the Minister for the purposes of this section.

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(4) Section 47 applies for the interpretation of this section.

43 Specified areas.

- (1) The Ministers may at any time order that section 40(1) shall come into operation in any area in which it is not then in operation, or shall cease to be in operation in any area in which it is then in operation.
- (2) Before making an order under this section the Ministers shall consult with such representative organisations as appear to them substantially to represent the interests concerned with the purposes of the order.
- (3) For the purposes of this Part—
 - (a) if a contract of sale of milk is made in one place and the milk is delivered under the contract in another place, the place of sale shall, except in a case falling within paragraph (b), be taken to be the place where the milk is so delivered;
 - (b) if a contract of sale of milk is made in one place and the milk is delivered under the contract to a carrier for transport to another place, the place of the sale shall be taken to be that other place.
- (4) Part II of Schedule 4 has effect as respects the application of Part I of that Schedule to a licence held by a retailer for a specified area.
- (5) Section 47 applies for the interpretation of this section.

44 Milk processing facilities.

- (1) The Minister may—
 - (a) install, maintain and operate apparatus for the subjection of milk to any process to which it is required to be subjected as a condition of the use of a special designation in connection with it, and
 - (b) provide any other facilities for that purpose,
 in any case in which it appears to him as respects—
 - (i) any area which is a specified area, or
 - (ii) an area as to which the Ministers propose to make an order bringing section 40(1) into operation.
 that facilities for the application of such treatment sufficient to provide for supplies of milk of that designation in that area in requisite quantities are not available and are not likely otherwise to become available.
- (2) Where the Minister provides facilities under this section—
 - (a) he may either buy the milk to be treated and re-sell it, otherwise than by retail or to a caterer for the purposes of his business as such, after treatment; or
 - (b) apply the treatment to milk of others.
- (3) The Minister may arrange with local authorities or other persons for the doing, on his behalf and at his expense, of things which he is authorised by this section to do, and it shall be within the powers of local authorities to carry out arrangements so made.
- (4) Section 47 applies for the interpretation of this section; and in this section “local authority” means a local authority within the meaning of the ^{M2}Local Government Act 1972.

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Marginal Citations

M2 1972 c. 70.

45 Breach of retailer’s licence.

- (1) In the event of a breach of any condition to which this section applies of a licence held by a retailer for a specified area, the holder of the licence shall be guilty of an offence under this section, subject to section 46.
- (2) The conditions to which this section applies are conditions as to any such matters as are specified in Schedule 5.
- (3) Milk (Special Designation) Regulations shall specify the authorities, whether local authorities or food and drugs authorities, by whom the provisions of this section are to be enforced as respects licences other than licences which authorise the use—
 - (a) of a special designation in relation to raw milk by its producer; or
 - (b) of a special designation by a local authority.
- (4) Section 47 applies for the interpretation of this section; and in this section “local authority” means a local authority within the meaning of the Local Government Act 1972.

46 Restriction on liability under s. 45.

- (1) Such a breach of condition as is mentioned in section 45, constituted by an act or omission for which the holder of the licence is liable to any punishment imposed by or under any enactment other than that section, does not render the holder of the licence guilty of an offence under that section.
- (2) Such a breach of condition as is mentioned in section 45 does not render the holder of the licence guilty of an offence under that section unless it was the later, or a later, of two or more such breaches, occurring within a period of 12 months, of conditions either of that licence or of that licence and a former licence by way of renewal of which that licence was granted, and was committed either—
 - (a) after the licensing authority had given him notice in writing as to an earlier of those two or more breaches informing him of his being alleged to have committed it, and warning him of the liability to prosecution imposed by section 45; or
 - (b) after he had been convicted of an offence under that section because of an earlier of those two or more breaches.
- (3) In the case of any prosecution in respect of such a breach of condition as is mentioned in section 45 which would otherwise render the holder of the licence guilty of an offence under that section, it is a defence for him to prove the following matters (either as to that breach, or as to the earlier breach relied on for the purpose of subsection (2) of this section, unless it is one under which he has been convicted of such an offence)—
 - (a) that neither he nor any servant or agent of his
 - (i) did or knew of the doing of, any act that constituted the breach or can reasonably be regarded as having been the cause or among the causes of it, or

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- (ii) omitted to do, or knew of an omission to do, any act the omission of which constituted the breach, or the doing of which 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, or had been delivered to him after being subjected to a process to which it was required to be subjected as a condition of the use of the special designation to which his licence related, that that designation—
 - (i) was used for the purpose of the sale to him or in connection with the delivery to him, as the case may be, and
 - (ii) 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 any condition, relating to receptacles, to closing, to fastening or to marking, of a licence to use that designation held by the person who sold the milk to him or subjected it to the process, as the case may be.
- (4) Section 47 applies for the interpretation of this section.

47 Interpretation of ss. 39 to 46.

In sections 39, 40, 41, 42, 43, 44, 45 and 46, in this section, and in Schedules 4 and 5, except where the context otherwise requires—

“business” includes the business of a hospital, school or other institution the selling of milk by which is incidental only to the rendering of the health, education or other services rendered by the institution;

“catering sale” means a sale of milk, or of things made from milk or of which milk is an ingredient, as, or as part of, a meal or refreshments;

“licence held by a retailer for a specified area” means a licence authorising the use of a special designation held by a person carrying on a business which includes any sales which are sales for the purpose of which the use of a special designation is obligatory by virtue of this Part and are of milk in relation to which that licence authorises the use of a special designation;

“licensing authority” means, in relation to a grant of a licence authorising the use of a special designation, the authority having power to grant the licence by virtue of Milk (Special Designation) Regulations, and, in relation to such a licence which has been granted, the authority who would for the time being have power by virtue of such regulations as mentioned above to grant a licence by way of its renewal if it had expired;

“milk” means cows’ milk, excluding not only condensed milk and dried milk, but also cream and separated, skimmed and evaporated milk, and butter milk;

“selling” means selling in the course of a business and includes, in relation to milk, supplying it under arrangements for free supply, and, in relation to milk and things made from milk or of which milk is an ingredient, supplying it or them, in the course of any business otherwise than under such arrangements; and references to sales and contracts of sale and sellers shall be construed accordingly;

“selling milk by retail” means selling it—

- (a) to any person other than a milk dealer (that is, a person who carries on a business which consists of or comprises the selling of milk) or a manufacturer of milk products (that is, a person who carries on a business which consists

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of or comprises the making of things made from milk or of which milk is an ingredient), or

- (b) to such a dealer or manufacturer otherwise than for the purposes of his business as such;

“specified area” has the meaning given by section 40(2);

“supplying under arrangements for free supply” means, in relation to any milk, supplying it, free from any payments made or to be made by the person to whom it is supplied, under arrangements made in exercise of powers in that behalf conferred by section 78(2) of the ^{M3}Education Act 1944, or section 22 of the ^{M4}Education Act 1980, or any regulation under the ^{M5}Emergency Laws (Re-enactments and Repeals) Act 1964; and references to a person’s buying milk include references to his having it supplied to him under such arrangements.

Marginal Citations

M3 1944 c. 31.

M4 1980 c. 20.

M5 1964 c. 60.

Cream substitutes

48 Misuse of designation “cream”.

- (1) A person is guilty of an offence who sells, or offers or exposes for sale, for human consumption—

- (a) any substance which resembles cream in appearance, but is not cream, or
(b) any article of food containing such a substance,

under a description or designation which includes the word “cream” (whether or not as part of a composite word).

- (2) Subsection (1) does not apply to the sale, or offer or exposure for sale—

- (a) of any substance being reconstituted or imitation cream as defined by this section, or of any article containing such a substance, under a description or designation which identifies the substance as such; or
(b) of any substance under a description or designation which indicates that the substance is not for use as or as a substitute for, cream.

- (3) In this section “reconstituted cream” means a substance which, not being cream, resembles cream in appearance and contains no ingredient not derived from milk, except—

- (a) water, or
(b) ingredients (not added fraudulently to increase bulk, weight or measure, or conceal inferior quality) which may lawfully be contained in a substance sold for human consumption as cream,

and “imitation cream” means a substance which, not being cream or reconstituted cream, resembles cream in appearance and is produced by emulsifying edible oils or fats with water, either by themselves or with other substances which are neither prohibited by regulations made for the purposes of this section under section 4, nor added in quantities so prohibited.

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- (4) For the purposes of this section, the description or designation under which a substance or article is sold, or offered or exposed for sale, shall be deemed to include the word “cream” if it includes any other word (composite or otherwise) which is calculated to lead a purchaser to suppose that the substance is or, as the case may be, the article contains either cream or a substance for use as cream.

49 Reconstituted cream.

Such of the following provisions as apply in relation to cream—

- (a) any provision of this Part,
- (b) any provisions of Milk and Dairies Regulations, other than provisions relating to the registration of dairymen and dairies, and
- (c) any provision of Milk (Special Designation) Regulations,

also apply in relation to reconstituted cream as defined by section 48, save as otherwise expressly provided.

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