

1973 No. 369

FOOD AND DRUGS**The Separated Milk Regulations 1973***Made - - - - 28th February 1973**Laid before Parliament 9th March 1973**Coming into Operation 1st April 1973*

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Social Services, acting jointly, in exercise of the powers conferred on them by section 123A of the Food and Drugs Act 1955(a) as amended by section 4(1) of, and paragraph 3(2)(a) of Schedule 4 to, the European Communities Act 1972(b) and as read with the Secretary of State for Social Services Order 1968(c), and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Separated Milk Regulations 1973, and shall come into operation on 1st April 1973.

Interpretation

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

“the Act of Accession” means the Act annexed to the Treaty relating to the accession of the United Kingdom to the European Economic Community signed at Brussels on the 22nd January 1972;

“food and drugs authority” has the meaning assigned to it by section 83 of the Food and Drugs Act 1955;

“human consumption” does not include use in the preparation of food for human consumption;

“milk” has the same meaning as in regulation No. 1411/71 of the Council of the European Communities(d);

“raw milk”, “whole milk”, “semi-skimmed milk” and “skimmed milk” have the same respective meanings as in the said regulation No. 1411/71;

“sale” in relation to milk, does not include sale to a milk processor for heat treatment or for an authorised treatment of equivalent effect;

“separated milk” means milk other than raw milk and whole milk.

(a) 4 & 5 Eliz. 2. c. 16.

(b) 1972 c. 68.

(c) S.I. 1968/1699 (1968 III, p. 4585).

(d) O.J. No. L148/4 of 3. 7. 71.

(2) The Interpretation Act 1889^(a) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) Any reference in these regulations to regulation No. 1411/71 of the Council of the European Communities shall be construed as a reference to that regulation—

(a) as specified in and as adapted by Article 29 of and Annex I Part II paragraph I. 11 to the Act of Accession (which permit Member States to provide for an additional high fat whole milk category) and as read with Article 89.1 of the Act of Accession (which until 31st December 1975, permits the supply to consumers as whole milk of unskimmed milk with a fat content of less than 3.5 per cent.);

(b) as replaced or amended by any subsequent directly applicable Community instrument.

Delivery of separated milk

3. No person shall deliver, or cause or permit to be delivered, on or in pursuance of any sale for human consumption any separated milk which is not semi-skimmed milk or skimmed milk delivered, in either case, as such.

Penalties and enforcement

4.—(1) If any person contravenes the foregoing provisions of these regulations he shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both and, in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

(2) Each food and drugs authority shall enforce and execute such provisions in their area.

Non-application of certain provisions of the Food and Drugs Act 1955

5. The provisions of section 94(1) of and Part II of the Seventh Schedule to the Food and Drugs Act 1955 (which relate to sampling of milk and subsequent proceedings) shall not apply for the purposes of these regulations.

Application of various sections of the Food and Drugs Act 1955

6.—(1) Without prejudice to the provisions of the Food and Drugs Act 1955 which specifically apply in respect of regulations made thereunder, sections 108(3) and (4) (which relate to prosecutions), 110(1), (2) and (3) (which relate to evidence of analysis), 112 (which relates to the power of a court to require analysis by the Government Chemist), 113 (which relates to a contravention due to some person other than the person charged), 115(2)(a) and (b) (which relate to the conditions under which a warranty may be pleaded as a defence) and 116 (which relates to offences in relation to warranties and certificates of analysis) of the Food and Drugs Act 1955 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 and as if the reference in the said section 112 to subsection (4) of section 108 included a reference to that subsection as applied by these regulations.

(2) Paragraph (b) of the proviso to section 108(1) of the Food and Drugs Act 1955 shall apply for the purposes of these regulations as if the reference therein to section 116 of that Act included a reference to that section as applied by these regulations.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 27th February 1973.

(L.S.)

Joseph Godber,
Minister of Agriculture, Fisheries and Food.

28th February 1973. *Keith Joseph,*
Secretary of State for Social Services.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which apply to England and Wales only and come into operation on 1st April 1973, supplement EEC regulation No. 1411/71 in so far as it relates to semi-skimmed and skimmed milk.

The Regulations prohibit the delivery on or in pursuance of sale for human consumption of separated milk other than semi-skimmed milk or skimmed milk delivered as such.

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