

1988 No. 1803

FOOD

The Importation of Milk Regulations 1988

<i>Made - - - -</i>	<i>19th October 1988</i>
<i>Laid before Parliament</i>	<i>26th October 1988</i>
<i>Coming into force</i>	<i>16th November 1988</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by section 1 of the Importation of Milk Act 1983(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Title, commencement and extent

1.—(1) These Regulations may be cited as the Importation of Milk Regulations 1988 and shall come into force on 16th November 1988.

(2) These Regulations extend to England and Wales.

Interpretation

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

“authorised officer” means an officer of any port health authority (or relevant local authority) which is approved for the time being for the purposes of these Regulations by the Minister, or any person authorised by the Minister to act for the purposes of these Regulations;

“bulk milk” means milk other than specified drinking milk or cream;

“consignment” means the total quantity of milk to which a single certificate, as described in regulation 4(1)(d), relates;

“Council Directive” means Council Directive 85/397/EEC(b) on health and animal health problems affecting intra-Community trade in heat-treated milk;

“cream” has the meaning given to it in the Milk and Dairies (Heat Treatment of Cream) Regulations 1983(c);

“designated place” means any place designated by an authorised officer;

“drinking milk”, “semi-skimmed milk”, “skimmed milk” and “standardised whole milk” have the meanings respectively given to them by Council Regulation (EEC) No. 1411/71(d) laying down additional rules on the common organisation of the market in milk and milk products for products falling within tariff heading No. 04.01;

“export” means remove to a place outside the United Kingdom;

“guideline figure” means the guideline figure as to fat content of standardised whole milk fixed by the Council of the European Economic Community in accordance with Article 3.7 of Council Regulation (EEC) No. 1411/71 in respect of the United Kingdom for each milk year;

(a) 1983 c.37.

(b) OJ No. L226, 24.8.85, p.13.

(c) S.I. 1983/1509, amended by S.I. 1985/68 and 1986/721.

(d) OJ No. L148, 3.7.71, p.4 (OJ/SE 1971 (II) p.42). Corrigendum at OJ No. L199, 19.7.73, p.38; the relevant amending instrument is Council Regulation (EEC) No. 566/76 (OJ No. L67, 15.3.76, p.23. Corrigendum at OJ No. L107, 24.4.76, p.22).

“human consumption”, except for the purposes of regulation 3(2), includes the preparation of food for human consumption;

“importer”, in relation to imported milk, includes any person who, whether as owner, consignor, consignee, agent or broker, is in possession of the milk or in any way entitled to the custody or control of it, and “import” shall be construed accordingly;

“milk” means cows’ milk and includes cream and separated milk but not dried or condensed milk;

“milk-based drink” has the meaning given to it in the Milk-based Drinks (Hygiene and Heat Treatment) Regulations 1983(a);

“milk year” means the year or other period for milk and milk products specified by the Council of the European Economic Community in Article 2 of Council Regulation (EEC) No. 804/68(b) on the common organisation of the market in milk and milk products or otherwise(c);

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“officer of Customs and Excise” includes any person acting under the authority of the Commissioners of Customs and Excise;

“place of entry” means a port, aerodrome or other place of entry;

“port health authority” and “port health district” have the meanings respectively given to them in Part I of the Public Health (Control of Disease) Act 1984(d);

“pre-packaged milk” means specified drinking milk and any other milk ready for delivery to the ultimate consumer;

“relevant local authority” means the council of any district or London borough or the Common Council of the City of London;

“separated” in relation to milk, includes skimmed;

“specified drinking milk” means the following categories of drinking milk:—

(a) semi-skimmed milk,

(b) skimmed milk,

(c) standardised whole milk having a fat content of not less than the guideline figure fixed for the milk year during which such standardised whole milk is imported into England and Wales;

“the 1986 Regulations” means the Milk and Dairies (Semi-skimmed and Skimmed Milk) (Heat Treatment and Labelling) Regulations 1986(e);

“ultimate consumer” means any person who buys milk otherwise than for the purposes of resale or use in the manufacture of milk products for sale;

“working day” means a day which is not a public holiday, Saturday or Sunday.

(2) For the purposes of these Regulations (other than the definitions of specified drinking milk and bulk milk), milk-based drink, but no other food containing milk shall be deemed to be milk.

(3) Any reference in these Regulations to a numbered regulation or Schedule shall, unless the reference is to a regulation of, or Schedule to, specified Regulations, be construed as a reference to the regulation or Schedule so numbered in these Regulations.

Prohibition on importation

3.—(1) Subject to regulation 4, no person shall import into England and Wales milk intended by him for human consumption.

(2) For the purposes of these Regulations milk imported into England and Wales shall be presumed, until the contrary is proved, to be intended by the importer for human consumption.

(a) S.I. 1983/1508, amended by S.I. 1985/67 and 1986/720.

(b) OJ No. L148, 28.6.68, p.13 (OJ/SE 1968 (I) p.176). Article 2 specifies that the milk year shall begin on 1 April and end on 31 March of the following year.

(c) Council Regulation (EEC) No. 1060/88 (OJ No. L104, 23.4.88, p.5) extending for the second time the 1987/88 marketing year in the milk and beef and veal sectors specifies that the 1988/89 milk year begins on 1 June 1988.

(d) 1984 c.22.

(e) S.I. 1986/722, amended by S.I. 1988/1804.

Exceptions to prohibition on importation

4.—(1) The prohibition on importation in regulation 3 shall not apply in respect of milk imported into England and Wales which—

- (a) is specified drinking milk, cream, milk-based drink or bulk milk,
- (b) has been pasteurised, sterilised or heat treated by the ultra high temperature method as specified in Schedule 1,
- (c) has been produced in, and is imported from, a Member State of the European Economic Community,
- (d) is accompanied by, and complies with, such certificate as the Minister may from time to time require by notice published in the London Gazette in relation to milk in general or milk of such description as may be specified in the notice,
- (e) is neither milk which is unfit for human consumption nor milk which has been rendered injurious to human health by addition of any substance as an ingredient, by abstraction of any constituent or by subjection to any other process or treatment,
- (f) is imported through an authorised place of entry, and
- (g) (i) in the case of pasteurised milk, is imported as pre-packaged milk or in a tanker which has been sealed by means of a watertight closure,
(ii) in the case of sterilised milk, is imported in the hermetically sealed container in which it was sterilised,
(iii) in the case of milk which has been heat-treated by the ultra high temperature method, is imported in the opaque containers in which it was packaged aseptically immediately after heat-treatment.

(2) In determining for the purposes of this regulation whether particular milk is injurious to human health, regard shall be had not only to the probable effect of that particular milk on the health of a person consuming it, but also to the probable cumulative effect of milk of substantially the same composition on the health of a person consuming such milk in ordinary quantities.

Authorised places of entry

5.—(1) The Minister may by notice published in the London Gazette designate a place of entry as an authorised place of entry either—

- (a) generally or
- (b) specially, in relation to a description of milk specified in the notice.

(2) The Minister may also, by authorisation in writing, designate a place of entry as an authorised place of entry for a consignment of milk specified in the authorisation.

Importation procedure

6.—(1) No person shall import any milk into England and Wales except in accordance with the procedure set out in Schedule 2.

(2) If any person imports any milk into England and Wales otherwise than in accordance with the procedure set out in Schedule 2, an authorised officer may cause that milk to be destroyed or disposed of by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom.

Application of other enactments relating to imported milk

7. In relation to imported milk, the provisions referred to in Schedule 3 shall be applied, disapplied or modified (as the case may be) in the manner prescribed in that Schedule.

Powers of authorised officers

8.—(1) The powers under these Regulations of an authorised officer who is an officer of a port health authority shall be exercisable only in relation to milk which is imported into England and Wales by entry into the port health district of which that authority is the port health authority, or milk which is or has been in that port health district.

(2) The powers under these Regulations of an authorised officer who is an officer of a relevant local authority shall be exercisable only in relation to milk which is imported into England and Wales by entry into such part of the area of that relevant local authority as is not within a port health district, or milk which is or has been in that part of that area.

(3) An authorised officer may, on production if so required of his authority, enter and remain on any premises (other than domestic premises) upon which he reasonably believes imported milk to be situated, at all reasonable hours for any purpose connected with the execution of these Regulations.

Duties of authorised officers

9.—(1) In carrying out any examination under paragraph 2 or 3 of Schedule 2, the authorised officer shall take all reasonable steps—

- (a) to ensure that the transport of the consignment and its placing on the market is not unduly delayed, and
- (b) to avoid causing any delays that might adversely affect the quality of the milk in the consignment.

(2) Where notice is given to an importer under paragraph 3(2) of Schedule 2 requiring the destruction or disposal of a consignment, the authorised officer shall make an endorsement on the certificate accompanying the consignment as required by regulation 4(1)(d), so as to indicate clearly the requirement under the notice.

(3) An endorsement made under paragraph (2) above may at any time be deleted or amended by an authorised officer and it shall be so deleted if the notice is rescinded, under paragraph 4(8)(b) of Schedule 2, or if a magistrates' court makes an order under paragraph 5(b) of Schedule 2 that the notice shall no longer have effect.

(4) Where notice is given to an importer of specified drinking milk or bulk milk under paragraph 2(2) or 3(2) of Schedule 2 as a result of a finding of any matter referred to in Article 7(5)(b) of the Council Directive (diagnosis of a contagious or infectious disease, or a deterioration dangerous to human or animal health, or a serious infringement of the Council Directive), the authorised officer shall immediately notify the Minister of such finding.

Offences

10.—(1) Any person who—

- (a) imports milk in contravention of any requirement imposed by or under these Regulations,
- (b) where milk is required by or under these Regulations to be dealt with by him, does not deal with that milk in accordance with that requirement, or
- (c) in connection with the importation of milk, makes a statement or uses a document which he knows to be false in a material particular or recklessly makes a statement or uses a document which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,000.

(2) In any proceedings for an offence under these Regulations where that offence comprises the importation of milk which is unfit for human consumption, it shall be a defence for the defendant to prove that at the time when he imported the milk he did not know, and could not with reasonable diligence have ascertained, that it was unfit for human consumption.

(3) A prosecution may be brought under this regulation notwithstanding that action may have been or may remain to be taken, in relation to the milk to which the prosecution relates, under regulation 6(2) or Schedule 2.

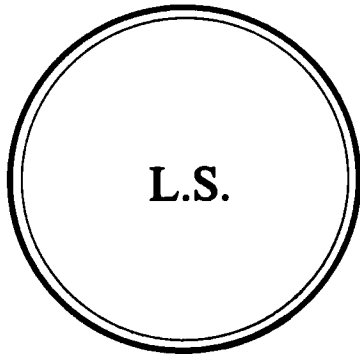
Revocation

11. The Importation of Milk Regulations 1983(a) and the Importation of Milk (Amendment) Regulations 1985(b) are revoked.

(a) S.I. 1983/1563.

(b) S.I. 1985/1089.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 19th October 1988.



John MacGregor
Minister of Agriculture, Fisheries and Food

Peter Walker
Secretary of State for Wales

14th October 1988

SCHEDULE 1

Regulation 4(1)(b)

1.—(1) Specified drinking milk or bulk milk is pasteurised by being heated to a temperature of not less than 71.7°C and retained at that temperature for not less than 15 seconds, or to such other temperature for such other period as has equivalent effect, cooled immediately thereafter to a temperature of not more than 6°C and retained at that temperature until the milk leaves the heat treatment establishment.

(2) Cream or milk-based drink is pasteurised by being heated to a temperature of not less than 72°C and retained at that temperature for not less than 15 seconds, or to such other temperature for such other period as has equivalent effect.

2. Specified drinking milk, cream, milk-based drink or bulk milk is sterilised by being heated in a hermetically sealed container to a temperature of not less than 108°C and retained at that temperature for not less than 45 minutes, or to such other temperature for such other period as has equivalent effect, and cooled as soon as practicable thereafter.

3.—(1) Specified drinking milk or bulk milk is heat treated by the ultra high temperature method to a temperature of not less than 135°C, by the application of a continuous flow of heat during one unbroken period of not less than 1 second and packaged aseptically in opaque containers.

(2) Cream or milk-based drink is heat treated by the ultra high temperature method by being heated to a temperature of not less than 140°C by the application of a continuous flow of heat during one unbroken period of not less than 2 seconds, or to such other temperature for such other period as has equivalent effect and packaged aseptically in opaque containers.

SCHEDULE 2

Regulation 6

1. Save as specified in this Schedule—

- (a) an importer shall ensure that, as soon as possible after importation and such examination as may be carried out by an officer of Customs and Excise, imported milk is taken to a designated place;
- (b) no person (other than an authorised officer or a person authorised in writing by an authorised officer) shall remove imported milk from a designated place.

2.—(1) After the arrival of a consignment of imported milk at a designated place an authorised officer shall carry out a primary examination (that is to say an examination of any document accompanying the consignment of imported milk and at the option of the authorised officer such examination of that consignment as may be carried out without opening any closed container).

(2) If upon that primary examination the authorised officer decides—

- (a) that any of the consignment of imported milk has been imported in breach of these Regulations, or
- (b) in the case of cream or milk-based drink, that human health would be protected if that consignment were not unconditionally authorised to be removed,

he shall give notice to the importer in writing that the consignment must not be removed from the designated place for any purpose other than its disposal or destruction in accordance with sub-paragraph (3) or (4) of this paragraph.

(3) In the case of specified drinking milk or bulk milk, having regard to considerations of human health, where the authorised officer is of the opinion that—

- (a) it is not necessary to destroy the consignment, he shall require the importer at the importer's expense and at his option either to return the consignment to the consignor or to use it for a purpose other than human consumption or to destroy it;
- (b) it is necessary to destroy the consignment, he shall require the importer, at the importer's expense, to destroy the consignment.

(4) In the case of cream or milk-based drink, the authorised officer shall require the importer at the importer's expense to export the consignment or to use it for a purpose other than human consumption or to destroy it.

(5) If upon that primary examination the authorised officer does not come to a decision described in sub-paragraph (2) of this paragraph, he may either—

- (a) unconditionally authorise the importer in writing to remove the consignment, or
- (b) subject to sub-paragraph (6) of this paragraph, arrange the carrying out of further examination of the consignment in accordance with paragraph 3 of this Schedule.

(6) In the case of specified drinking milk or bulk milk, the authorised officer may act under sub-paragraph (5)(b) of this paragraph only where it appears to him that one of the following provisions applies, that is to say:—

- (a) Article 5(4) of the Council Directive (which permits intensified checks in specified circumstances relating to the non-observance in a milk-treatment establishment of the provisions of the Council Directive);
- (b) Article 7(2) of the Council Directive (which permits checks where irregularities are suspected).

3.—(1) For the purpose of further examination under this paragraph an authorised officer may, to such extent as is reasonable and within such time as is reasonable—

- (a) remove any imported milk from a designated place,
- (b) open any container of imported milk,
- (c) take samples of imported milk,
- (d) test samples of imported milk,
- (e) analyse samples of imported milk, and
- (f) arrange, by agreement with any other person, for samples of imported milk to be tested and analysed by that other person.

(2) If upon further examination the authorised officer decides—

- (a) that any of the consignment of imported milk has been imported in breach of these Regulations, or
- (b) in the case of cream or milk-based drink that human health would be protected if the consignment were not unconditionally authorised to be removed,

he shall give notice to the importer in writing that the consignment must not be removed from the designated place for any purpose other than its disposal or destruction in accordance with sub-paragraph (3) or (4) of this paragraph.

(3) In the case of specified drinking milk or bulk milk, having regard to considerations of human health, where the authorised officer is of the opinion that—

- (a) it is not necessary to destroy the consignment, he shall require the importer at the importer's expense and at his option either to return the consignment to the consignor or to use it for a purpose other than human consumption or to destroy it;
- (b) it is necessary to destroy the consignment, he shall require the importer, at the importer's expense, to destroy the consignment.

(4) In the case of cream or milk-based drink, the authorised officer shall require the importer at the importer's expense to export the consignment or to use it for a purpose other than human consumption or to destroy it.

(5) If upon further examination the authorised officer does not come to a decision described in sub-paragraph (2) of this paragraph, he shall unconditionally authorise the importer in writing to remove the consignment.

(6) An authorised officer may unconditionally authorise an importer in writing to remove a consignment notwithstanding that further examination of that consignment has not been completed.

(7) Where further examination of a consignment is being carried out, an authorised officer shall authorise the importer to remove from the designated place such milk as the importer may reasonably require for the purpose of sampling with a view to possible proceedings under these Regulations in a magistrates' court.

4.—(1) Where notice is given to an importer under paragraph 2(2) or 3(2) of this Schedule that a consignment of imported milk must not be removed from a designated place for any purpose other than its disposal or destruction in accordance with paragraph 2(3), 2(4), 3(3) or 3(4) of this Schedule, such notice shall—

- (a) specify the grounds on which it is based;
- (b) where the imported milk is specified drinking milk or bulk milk imported on or after 1st January 1989, inform the importer of his right to obtain the opinion of an expert by serving a counter-notice in accordance with sub-paragraph (4) of this paragraph;
- (c) inform the importer that the consignment may be disposed of or destroyed by the authorised officer so that it cannot be used for human consumption, unless—
 - (i) within the time specified in sub-paragraph (2) of this paragraph the importer gives to the authorised officer a written undertaking to comply with the requirement to dispose of or destroy the consignment as specified in the notice, or to try to prove to a magistrates' court that the decision of the authorised officer, under paragraph 2(2) or 3(2) of this Schedule, as the case may be, was incorrect; or
 - (ii) the authorised officer rescinds the notice.

(2) The time within which the importer is required to give an undertaking under sub-paragraph (1)(c)(i) of this paragraph shall be—

- (a) in the case of specified drinking milk or bulk milk where the importer serves a counter-notice in accordance with sub-paragraph (4) of this paragraph, within seven days of the contents of the written opinion of the expert being notified to him under sub-paragraph (8)(a) of this paragraph;
- (b) in the case of specified drinking milk or bulk milk where the importer does not serve a counter-notice in accordance with sub-paragraph (4) of this paragraph, within seven days of the receipt of the notice under paragraph 2(2) or 3(2) of this Schedule;
- (c) In any other case, a time specified in the notice under paragraph 2(2) or 3(2) of this Schedule, being not earlier than the end of the next working day after the notice is received.

(3) If within the time specified in sub-paragraph (2) of this paragraph the authorised officer has not received any such written undertaking as is described in the notice, or if within that time he has received such written undertaking and the undertaking has not been carried out, the authorised officer may cause the consignment to be disposed of or destroyed by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom.

(4) An importer of specified drinking milk or bulk milk imported on or after 1st January 1989 given a notice under paragraph 2(2) or 3(2) of this Schedule may, within seven days from the date of service of the notice, serve a counter-notice upon the authorised officer requiring him to obtain the opinion of an expert, to be nominated by the Minister, as to the matters specified in sub-paragraph (6) of this paragraph.

(5) Upon receipt of a counter-notice served under sub-paragraph (4) of this paragraph, the authorised officer shall inform the Minister of its contents and request the nomination of an expert for the said purpose.

(6) The Minister shall consult the Commission of the European Economic Community as to the nomination of an expert, who shall be a national of a Member State of the said Community other than the exporting country or the United Kingdom and acting on the advice of the said Commission the Minister shall nominate an expert to determine—

- (a) whether the consignment has been imported contrary to these Regulations; and
- (b) the accuracy and relevance of any matter specified in the notice under paragraph 2(2) or 3(2) of this Schedule as a ground on which such notice is based.

(7) The expert so nominated shall examine the consignment and determine the matters referred to in sub-paragraph (6) of this paragraph and shall give his written opinion thereon to the authorised officer.

(8) Not later than the end of the next working day after receipt by him of the written opinion of the expert, the authorised officer—

- (a) shall notify its contents to the importer who, under sub-paragraph (4) of this paragraph, has required it to be obtained, and
- (b) may rescind the notice given by him under paragraph 2(2) or 3(2) of this Schedule by giving written notice to that effect to the importer.

(9) If within the time specified in sub-paragraph (2) of this paragraph the authorised officer has received a written undertaking in accordance with sub-paragraph (1)(c)(i) of this paragraph to try to prove to a magistrates' court that the decision of the authorised officer was incorrect, the authorised officer shall—

- (a) apply, by way of complaint to a justice of the peace made no later than the end of the next working day after receipt of the undertaking, for an order of a magistrates' court under paragraph 5 of this Schedule,
- (b) authorise the importer to remove from the designated place such milk as the importer may reasonably require for the purpose of evidence in the magistrates' court, and
- (c) make available to the importer such information (in relation to any further examination which has taken place under paragraph 3 of this Schedule) as the importer may reasonably require for the purpose of evidence in the magistrates' court.

5. Where, in pursuance of paragraph 4 of this Schedule, an application is made for an order of a magistrates' court—

- (a) if the magistrates' court is satisfied that the importer has failed to prove that the decision of the authorised officer (under paragraph 2(2) or 3(2) of this Schedule) was incorrect, the court shall order the consignment to be disposed of or destroyed under the supervision of an authorised officer by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom;
- (b) if the magistrates' court is satisfied that the importer has proved that that decision was incorrect, the court shall order that the notice under paragraph 2(2) or 3(2) of this Schedule, as the case may be, shall no longer have effect and unconditionally authorise the importer to remove the consignment from the designated place.

6. An authorised officer may with the agreement of an officer of Customs and Excise carry out any examination, or any part of an examination, of a consignment of imported milk before the examination of the consignment by the officer of Customs and Excise has been completed and if, as a result of such an examination, the authorised officer gives the importer unconditional authorisation in writing to remove the consignment, compliance on the part of the importer with paragraph 1(a) of this Schedule shall not be required.

7. An authorised officer may, to such extent as is reasonable for the purpose of protection of human health, at any stage from the time when a consignment of imported milk reaches him for primary examination under paragraph 2 of this Schedule, do anything specified in paragraph 3(1)(a) to (f) of this Schedule notwithstanding that he is not carrying out a further examination under paragraph 3 of this Schedule and may take such action as is reasonable in respect of the disposal or destruction of any milk which he has removed under this paragraph.

8.—(1) Where unconditional authorisation is given under this Schedule to an importer to remove from a designated place a consignment from which milk has been previously removed under paragraph 3(1), 3(7), 4(9)(b) or 7 of this Schedule, that authorisation shall relate to the remainder of that consignment.

(2) Where under paragraph 2(5)(b) of this Schedule an authorised officer arranges the carrying out of a further examination of a consignment from which milk has been previously removed under paragraph 7 of this Schedule, that further examination (and anything consequent on that further examination) shall relate to the remainder of that consignment.

9. Where a notice under paragraph 2(2) or 3(2) of this Schedule (or under any equivalent provision of legislation having effect in Scotland or Northern Ireland) is in effect in relation to a consignment, an authorised officer may cause any consignment subsequently landed in England and Wales which contains any milk from that previously mentioned consignment, to be destroyed or disposed of by such means and in such manner as to prevent it from being used for human consumption in the United Kingdom.

1. In this Schedule "permitted imported milk" means—
 - (a) milk imported into England and Wales—
 - (i) pursuant to the disapplication, by regulation 4, of the importation prohibition contained in regulation 3, and
 - (ii) in accordance with these Regulations, and
 - (b) milk brought into England and Wales from another part of the United Kingdom where that milk has been imported into that other part of the United Kingdom in accordance with legislation in force in that other part of the United Kingdom.
2. The following provisions shall not apply in respect of permitted imported milk:—
 - (a) the Public Health (Imported Milk) Regulations 1926(a),
 - (b) the Imported Food Regulations 1984(b).
3. The following provisions shall not apply in respect of the types of permitted imported pre-packaged milk specified in relation thereto:—
 - (a) as regards standardised whole milk which is specified drinking milk, sections 38 to 47 of the Food Act 1984(c) (which relate to special designations);
 - (b) as regards milk-based drink, regulation 7 of the Milk-based Drinks (Hygiene and Heat Treatment) Regulations 1983(d) (which relates to heat treatment);
 - (c) As regards cream, regulation 4 of the Milk and Dairies (Heat Treatment of Cream) Regulations 1983(e) (which relates to heat treatment).
4. The following provisions shall not apply in respect of the types of permitted imported milk specified in relation thereto:—
 - (a) as regards bulk milk and milk-based drink, paragraph 1 of Schedule 2 to the Milk-based Drinks (Hygiene and Heat Treatment) Regulations 1983 (which relates to the country of origin);
 - (b) as regards bulk milk and cream, paragraph 1 of Schedule 1 to the Milk and Dairies (Heat Treatment of Cream) Regulations 1983 (which relates to the country of origin).
5. Regulation 30(2) of the Milk and Dairies (General) Regulations 1959(f) (which requires the filling and closing of bottles and cartons on registered premises) shall have effect as if, for the words "a bottle or carton in which cream is imported and is intended to be delivered to consumers" on both occasions where they appear, there were substituted the words "permitted imported pre-packaged milk (as defined in regulation 2(1) of and paragraph 1 of Schedule 3 to the Importation of Milk Regulations 1988)".
- 6.—(1) Subject to sub-paragraphs (2) and (3) of this paragraph, the 1986 Regulations shall apply to permitted imported milk which is specified drinking milk as if, for the words "semi-skimmed milk or skimmed milk" wherever they appear in—
 - (a) the definition of "presentation" in regulation 2(1) (which relates to interpretation),
 - (b) regulation 4 (which relates to labelling and presentation), or
 - (c) Schedule 4 (which relates to labelling),
 of the 1986 Regulations, there were substituted the word "milk".
 - (2) Regulation 3 of the 1986 Regulations (which relates to heat treatment) shall not apply to permitted imported milk which is specified drinking milk except in so far as it prohibits the sale of semi-skimmed milk and skimmed milk in the absence of the compliance by a milk purveyor with his obligations under paragraph 2 of Schedule 1 to the 1986 Regulations (which relates to records).
 - (3) Paragraph 2(1)(a) of Schedule 4 to the 1986 Regulations shall only apply to permitted imported milk which is semi-skimmed milk or skimmed milk.

(a) S.R. & O 1926/820, amended by S.I. 1982/1727 and 1985/67.

(b) S.I. 1984/1918.

(c) 1984 c.30.

(d) S.I. 1983/1508, amended by S.I. 1985/67 and 1986/720.

(e) S.I. 1983/1509, amended by S.I. 1985/68 and 1986/721.

(f) S.I. 1959/277; relevant amending instruments are S.I. 1977/171 and 1983/1563.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England and Wales only, re-enact with amendments the Importation of Milk Regulations 1983, as amended.

They make provision for the implementation of Council Directive No. 85/397/EEC (OJ No. L226, 24.8.85, p.13) on health and animal health problems affecting intra-Community trade in heat-treated milk.

The principal changes are that—

(a) subject to compliance with specified requirements,—

(i) pasteurised milk, cream and milk-based drink and

(ii) milk in bulk as well as pre-packaged milk,

may now be imported (regulation 4(1));

(b) as from 1st January 1989, an importer whose importation of a consignment of milk is refused entry, is permitted, in specified circumstances, to obtain the opinion of an expert (regulation 6 and Schedule 2, paragraph 4(4)).

Consequently, regulation 2(1) contains new definitions, in particular of “bulk milk”, “pre-packaged milk” and “specified drinking milk”. The last expression comprises—semi-skimmed milk, skimmed milk and standardised whole milk, the categories of drinking milk permitted to be imported in closed containers by the 1983 Regulations.

The Regulations prohibit (regulation 3) the importation of milk, cream and milk-based drink into England and Wales unless (regulation 4)—

(a) it has been pasteurised, sterilised or heat treated by the ultra high temperature method,

(b) it comes from an EEC member State,

(c) it is accompanied by an authorised certificate,

(d) it is fit for human consumption,

(e) it is imported through an authorised place of entry, and

(f) it is imported, in the case of pasteurised milk, as pre-packaged milk or in a tanker which has been sealed by means of a watertight closure; in the case of sterilised milk, in the hermetically sealed container in which it was sterilised and, in the case of milk which has been heat treated by the ultra high temperature method, in the opaque containers in which it was packaged aseptically immediately after heat treatment.

Details of authorised certificates and authorised places of entry must be published by notice in the London Gazette (regulations 4 and 5), and there is provision (regulation 5) for importation of particular consignments, subject to written Ministerial authorisation, through a place of entry not listed in such a notice.

Regulation 6 and Schedule 2 deal with the procedure for examination on importation under the supervision of authorised officers (that is to say officers of approved port health or local authorities or officers authorised by the Minister of Agriculture, Fisheries and Food). There is provision for reference of such an officer's decision to a magistrates' court and, in the case of specified drinking milk or bulk milk, for obtaining the opinion of an expert. An authorised officer's powers of entry are set out in regulation 8(3).

Regulation 7 and Schedule 3 adapt existing legislation to imported milk. As a result of this adaptation—

(a) permitted imported milk, cream and milk-based drinks are exempt from inspection requirements which would duplicate provisions of these Regulations (Schedule 3, paragraph 2(a) and (b)); and

- (b) permitted imported pre-packaged milk which is—
- (i) standardised whole milk having a fat content of not less than the specified guideline figure, is exempt from the requirements of being sold under a special designation licence (Schedule 3, paragraph 3(a)), and
 - (ii) milk-based drink, cream, semi-skimmed milk or skimmed milk, is exempt from domestic heat treatment requirements (Schedule 3, paragraphs 3(b) and (c) and 6(2));
- (c) permitted imported bulk milk and milk-based drink may be domestically heat treated for use as milk-based drinks (Schedule 3, paragraph 4(a));
- (d) permitted imported bulk milk and cream may be domestically heat treated to produce heat treated cream (Schedule 3, paragraph 4(b));
- (e) containers of permitted imported pre-packaged milk and cream do not have to be filled and closed on registered premises (Schedule 3, paragraph 5);
- (f) labelling provisions which apply to domestically produced milk are applied to imported milk (Schedule 3, paragraph 6(1) and (3)).

Offences against these Regulations are punishable on summary conviction by a fine not exceeding £2,000 (regulation 9).