

1990 No. 2492

FOOD

**The Milk (Special Designation) (Amendment)
Regulations 1990**

Made - - - - - *10th December 1990*
Laid before Parliament *11th December 1990*
Coming into force *1st January 1991*

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 4(1), 6(4), 16(1)(d) and (3), 18(2)(a) and (b), 19(1)(b), 26 and 48(1) of, and paragraphs 4(b) and 5 of Schedule 1 to, the Food Safety Act 1990(a) and of all other powers enabling them in that behalf and after consultation in accordance with section 48 of the said Act of 1990 with such organisations as appear to them to be representative of interests substantially affected by the Regulations hereby make the following Regulations:-

Title, commencement and extent

1.—(1) These Regulations may be cited as the Milk (Special Designation) (Amendment) Regulations 1990 and shall come into force on 1st January 1991.

(2) These Regulations extend to England and Wales.

Amendment of previous regulations — general

2. The Milk (Special Designation) Regulations 1989(b) shall be amended as specified in the following provisions of these Regulations and any reference in those provisions to any specified provision shall, unless the context requires otherwise, be taken to be a reference to the provision so specified in the Milk (Special Designation) Regulations 1989.

Amendment of regulation 2D

3.—(1) For the heading to regulation 2D there shall be substituted the heading “**Adulteration and offences relating to durability indications**”

(2) Immediately after paragraph (1) of regulation 2D there shall be added the following paragraphs:

“(1A) No person shall sell to the ultimate consumer (as defined in Schedule 6) any milk after the date shown in a “use by” date (as referred to in that Schedule) relating to it.

(a) 1990 c. 16.

(b) S.I. 1989/2383 and S.I. 1990/2486.

(1B) No person, being a person other than whichever of the producer, packer or seller established within the European Economic Community was originally responsible for so marking the milk, shall alter the indication of minimum durability or, as the case may be, the "use by" date relating to that milk.

(1C) In any proceedings for an offence under paragraph (1B) above it shall be a defence for a person charged to prove that each alteration in respect of which the offence is alleged was effected under the written authorisation of a person capable of effecting that alteration without contravention of that provision."

Amendment of Schedule 6, paragraph 1

4. In Schedule 6, paragraph 1 (general labelling requirements), for sub-paragraph (b) there shall be substituted the following sub-paragraph:

"(b) the appropriate durability indication, that is to say—

- (i) in the case of milk other than one specified in paragraph (ii) of this sub-paragraph, an indication of minimum durability;
- (ii) in the case of milk which, from the microbiological point of view, is highly perishable and in consequence likely after a short period to constitute an immediate danger to human health, a "use by" date;"

Amendment of Schedule 6, paragraph 3

5. In Schedule 6, paragraph 3, sub-paragraphs (4) and (5) shall be deleted.

Insertion of paragraph 3A in Schedule 6

6. Immediately following paragraph 3 of Schedule 6 there shall be inserted the following paragraph:

"Form of indication of "use by" date

3A.—(1) Where a "use by" date is required in respect of milk it shall be indicated by—

- (a) the words "use by" followed by the date up to and including which the milk, if properly stored, is recommended for use, and
- (b) any storage conditions which need to be observed.

(2) The "use by" date shall be expressed in terms either of a day and a month (in that order) or of a day, a month and a year (in that order).

(3) The date up to and including which milk required to bear a "use by" date is recommended for use may appear separately from the words "use by" provided that those words are followed by a reference to the place where that date appears."

Amendment of Schedule 6, paragraph 4

7. In Schedule 6, paragraph 4 (field of vision), for the words "indication of minimum durability" wherever they appear there shall be substituted the words "appropriate durability indication".

Transitional Provision

8. Nothing in these Regulations shall be taken to treat as a breach of a condition of a licence (as defined in the Milk (Special Designation) Regulations 1989) a sale before 1st July 1991 of any milk which is not marked or labelled with the appropriate durability indication referred to in Schedule 6, paragraph 1(b), in circumstances in which that milk is marked or labelled in accordance with what would have been the requirements of Schedule 6, paragraph 3, had these Regulations not come into force.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 7th December 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

10th December 1990

Stephen Dorrell
Parliamentary Under Secretary of State for Health

7th December 1990

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England and Wales only, further amend the Milk (Special Designation) Regulations 1989 by deleting provisions permitting a "sell by" date and introducing provisions requiring a "use by" date in labelling conditions for milk which is microbiologically highly perishable. New offences are introduced for selling milk bearing an expired "use by" date and for anyone other than the person originally responsible for applying the date mark to change it.

These Regulations come into force on 1st January 1991 but there is a transitional provision permitting the continuation of the observance of previous labelling conditions on durability until the end of June 1991.

The Regulations implement provisions of Council Directive No. 79/112/EEC (OJ No. L33, 8.2.79 p.1) on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs as added or varied by Council Directive No. 89/395/EEC (OJ No. L186, 30.6.89, p.17), insofar as they relate to whole milk.

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