
STATUTORY INSTRUMENTS

1995 No. 1372

The Dairy Products (Hygiene) (Scotland) Regulations 1995

PART III

APPROVAL AND USE OF DAIRY ESTABLISHMENTS

Approvals

- 6.—(1) No person shall use any premises as a dairy establishment unless those premises—
- (a) comply with the appropriate requirements of Schedule 2; and
 - (b) are approved in accordance with the provisions of paragraph (3)(a) or (9) below.
- (2) No person shall—
- (a) despatch from any approved dairy establishment any dairy products which do not comply with the provisions of these Regulations; or
 - (b) despatch any dairy products to another EEA State or any part of the British Islands, from a dairy establishment to which this regulation applies but which is not approved under this regulation.
- (3) Subject to paragraph (9) below, the food authority, on application made to it under this regulation shall—
- (a) approve the premises to which the application relates as a dairy establishment, if it is satisfied that—
 - (i) in the case of a collection centre, both the premises and the arrangements at those premises for use as a collection centre are adequate to comply with the requirements of Parts I and III of Schedule 2 and with the appropriate requirements of section B of Part II of that Schedule;
 - (ii) in the case of a standardisation centre, both the premises and the arrangements at those premises for use as a standardisation centre are adequate to comply with the requirements of Parts I and III of Schedule 2 and with the appropriate requirements of section C of Part II of that Schedule;
 - (iii) in the case of a processing establishment, both the premises and the arrangements at those premises for use as a processing establishment are adequate to comply with the requirements of Parts I and III of Schedule 2 and with the appropriate requirements of section A of Part II of that Schedule;
 - (iv) in the case of a treatment establishment, both the premises and the arrangements at those premises for use as a treatment establishment are adequate to comply with the requirements of Parts I and III of Schedule 2 and with the appropriate requirements of section A of Part II of that Schedule; and
 - (v) the arrangements at the dairy establishment are adequate to enable the occupier to comply with the requirements of regulation 13(1); or
 - (b) refuse to approve the premises as a dairy establishment if it is not so satisfied.

(4) Each application for an approval under this regulation shall be made in writing to the food authority by the occupier of, or a person proposing to occupy, the dairy establishment to which the application relates.

(5) The food authority shall, without unreasonable delay after receipt of the application referred to in paragraph (4) above, notify the applicant in writing of its decision on that application and of the reasons for any refusal to approve such dairy establishment.

(6) Any person who is aggrieved by a decision of the food authority not to grant an approval or by the imposition of any condition specified by the food authority, may appeal to the sheriff.

(7) Sections 37(4) to (6) of the Act shall have effect in relation to an appeal under this regulation as they have effect in relation to an appeal under that section but with the omission of—

(a) the references to appeals for which provision is made by regulations under section 37(2); and

(b) subsection 5(b) and the word “or” immediately preceding it.

(8) Any approval granted in respect of any dairy establishment under this regulation shall be subject to the condition that any alteration to the establishment shall comply with the requirements of Schedule 2, if appropriate.

(9) The food authority may approve as a dairy establishment any low capacity dairy establishment which may not comply with any or all of the requirements of Parts I and II of Schedule 2.

(10) Without prejudice to sections 9 to 12 of the Act, where the food authority has refused an approval under this regulation, a person who, both prior to the coming into force of these Regulations and immediately before such refusal had been lawfully using any premises for the handling of dairy products, may continue to use such premises for that purpose, subject to any reasonable conditions imposed by the food authority for the protection of public health, until the time for appeal has expired and, if an appeal is lodged, until the appeal is finally disposed of or abandoned.

(11) The food authority shall be entitled to inspect any premises in respect of which an application has been made for approval as a dairy establishment prior to approving those premises.