STATUTORY INSTRUMENTS

2017 No. 848

FOOD, ENGLAND

The Caseins and Caseinates (England) Regulations 2017

Made - - - -	*22nd August 2017*
Laid before Parliament	*23rd August 2017*
Coming into force - -	*26th September 2017*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 6(4), 16(1), 17(1), 26(1) and (3) and 48(1) of the Food Safety Act 1990 [F1].

The Secretary of State has had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of that Act [F2].

There has been consultation, as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety [F3], during the preparation and evaluation of the following Regulations.

F1 1990 c.16: Section 6(4) was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40) and paragraph 10(1) and (3) of Schedule 5 to the Food Standards Act 1999 ("the 1999 Act") and partially repealed by Schedule 6 to the 1999 Act and S.I. 2002/794. Section 16(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Section 17(1) was amended by paragraphs 8 and 12(a) of Schedule 5 to the 1999 Act and S.I. 2011/1043. Section 26(3) was partially repealed by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Functions formerly exercisable by "the Ministers" (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act.

F2 Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the Food Standards Act 1999.

F3 OJ No L 31, 1.2.2002, p 1, as last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 27.6.2014, p 1).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Caseins and Caseinates (England) Regulations 2017 and come into force on 26th September 2017.

(2) They only apply in relation to England.

Interpretation

2. In these Regulations—

"edible acid casein" means a milk product obtained by separating, washing and drying the acid-precipitated coagulum of skimmed milk and/or of other products obtained from milk, and complying with the standards set out in Schedule 1;

"edible caseinate" means a milk product obtained by action of edible casein or edible casein curd coagulum with neutralizing agents, followed by drying, and complying with the standards set out in Schedule 2;

"edible rennet casein" means a milk product obtained by separating, washing and drying the coagulum of skimmed milk and/or other products from milk; the coagulum is obtained through the reaction of rennet or other coagulating enzymes, and complying with the standards set out in Schedule 3;

"mixture" means a product composed of any two, or all three, of edible acid casein, edible caseinate and edible rennet casein.

Marketing of certain caseins and caseinates

3.—(1) No person may market a product as—

(a) an edible acid casein;

(b) an edible caseinate;

(c) an edible rennet casein; or

(d) a mixture,

unless it satisfies conditions 1 and 2.

(2) Condition 1 is that the product is an edible acid casein, edible caseinate, edible rennet casein or a mixture (as applicable).

(3) Condition 2 is that the product satisfies the applicable labelling requirements in regulation 4.

Labelling

4.—(1) The labelling requirements are those set out in paragraphs (2) to (4).

(2) The product's package, container or label must be marked with—

(a) in the case of a product which is not a mixture, whichever of the following markings is applicable—

(i) "edible acid casein";

(ii) "edible caseinate";

(iii) "edible rennet casein",

with, in the case of an edible caseinate, an indication of any cation used.

(b) in the case of a mixture—

(i) the words 'mixture of' followed by the names of the different products of which the mixture is composed, in decreasing order of weight; and

(ii) in the case of a mixture containing edible caseinate—

(aa) an indication of any cation used; and

(bb) the protein content of the mixture;

(c) the net quantity of the product, expressed in kilograms or grams;

(d) the name, or business name, and address of the food business operator under whose name, or business name, the product is marketed or, if that food business operator is not established in the **[**F4United Kingdom**]**, the importer into the **[**F4United Kingdom**]** market;

(e) in the case of a product imported from a **[**F5third country**]**, the name of the country of origin; and

(f) the lot identification of the product or the date of production.

(3) But the package, container or label need not be marked with the particulars referred to in paragraph (2)(b)(ii)(bb), (c), (d) or (e) if those particulars are marked in a document accompanying the product.

(4) A marking required under paragraph (2) or contained in a document as described in paragraph (3) must be—

(a) in easily visible, clearly legible and indelible characters; and

(b) in English, either exclusively or in addition to any other language.

(5) Where the minimum milk protein content standards applicable to a product are exceeded, nothing in these Regulations prevents that fact being marked on the product's package, container or label.

(6) In this regulation—

(a) "cation" refers to a neutralizing or buffering agent mentioned in table 4 of Schedule 2;

(b) "minimum milk protein content standards" means the standards set out at item 2 in table 1 of Schedule 1, 2 or 3 (as applicable).

[F6(c) "third country" means any country, other than the United Kingdom, and includes—

(i) the Bailiwick of Guernsey;

(ii) the Bailiwick of Jersey;

(iii) the Isle of Man.**]**

F4 Words in reg. 4(2)(d) substituted (27.5.2021) by The Food and Drink (Miscellaneous Amendments Relating to Food and Wine Composition, Information and Labelling) Regulations 2021 (S.I. 2021/632), regs. 1, **5(2)(a)(i)**

F5 Words in reg. 4(2)(e) substituted (27.5.2021) by The Food and Drink (Miscellaneous Amendments Relating to Food and Wine Composition, Information and Labelling) Regulations 2021 (S.I. 2021/632), regs. 1, **5(2)(a)(ii)**

F6 Reg. 4(6)(c) inserted (27.5.2021) by The Food and Drink (Miscellaneous Amendments Relating to Food and Wine Composition, Information and Labelling) Regulations 2021 (S.I. 2021/632), regs. 1, **5(2)(b)**

Caseins and caseinates not suitable for use in food

5.—(1) This regulation applies to a product which is, or contains, a casein or caseinate that does not comply with the contaminants and impurities standards.

(2) No person may use the product for the preparation of food.

(3) Paragraph (4) applies if the product may be lawfully marketed for a purpose other than the preparation of food.

(4) No person may market the product unless it is named and labelled in such a way that the purchaser is not misled as to its nature, quality or intended use.

(5) In this regulation, "the contaminants and impurities standards" are those set out in Schedule 4.

Enforcement

6. Each food authority must enforce and execute these Regulations in its area.

Application, with modification, of provisions of the Food Safety Act 1990

7. The provisions of the Food Safety Act 1990 specified in column 1 of the table in Schedule 5 apply, with the modifications specified in column 2 of the table, for the purposes of these Regulations.

Revocations

8. The following Regulations are revoked—

(a) the Caseins and Caseinates Regulations 1985 [F7];

(b) the Caseins and Caseinates (Amendment) Regulations 1989 [F8].

F7 S.I. 1985/2026.
F8 S.I. 1989/2321.

Review

9.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations, and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 26 September 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 [F9] requires that a review carried out under this regulation must, so far as is reasonable, have regard to how Directive (EU) 2015/2203 of the European Parliament and of the Council on the approximation of the laws of the member States relating to caseins and caseinates intended for human consumption and repealing Council Directive 83/417/EEC[F10] is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

F9 2015 c. 26. Section 30(3) was amended by the Enterprise Act 2016 (c. 12), **section 19**.
F10 OJ L 314, 1.12.2015, p.1.

[F11Transitional provision: withdrawal from the EU

10.—(1) An authorised officer of a food authority must not serve on a person an improvement notice relating to a failure to comply with regulation 4(2)(d) or (e) if—

(a) the improvement notice would relate to a product that was placed on the market before the last day of the period of 21 months beginning with the day on which IP completion day falls; and

(b) the matter would not have constituted a failure to comply with regulation 4(2)(d) or (e) (as the case may be) as those provisions had effect immediately before IP completion day.

(2) In this regulation, "improvement notice" means an improvement notice pursuant to regulation 7.**]**

F11 Reg. 10 inserted (27.5.2021) by The Food and Drink (Miscellaneous Amendments Relating to Food and Wine Composition, Information and Labelling) Regulations 2021 (S.I. 2021/632), regs. 1, **5(3)**

Department for Environment, Food and Rural Affairs

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