STATUTORY RULES OF NORTHERN IRELAND

1996 No. 287

FOOD
MILK AND DAIRIES

Dairy Products (Hygiene) (Amendment) Regulations (Northern Ireland) 1996

Made - - - -	*17th July 1996*
Coming into operation	*25th August 1996*

The Department of Agriculture and the Department of Health and Social Services, being the Departments concerned(**1**), in exercise of the powers conferred by Articles 15(1) and (3), 16(1), 17(2), 18, 25, 26(3), 32 and 47(2) of, and paragraphs 5 and 6(1)(*a*) of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(**2**) and of every other power enabling them in that behalf, after consultation in accordance with Article 47(3) of the said Order of 1991 with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Dairy Products (Hygiene) (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 25th August 1996.

Amendment of the Dairy Products (Hygiene) Regulations (Northern Ireland) 1995

2. The Dairy Products (Hygiene) Regulations (Northern Ireland) 1995(**3**) shall be amended in accordance with regulations 3 to 13.

3. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of "collection centre" there shall be inserted the following definitions—

(**1**) *See* S.I.1991/762 (N.I. 7) Article 2(2) for the definitions of "the Department concerned" and "regulations" and with respect to the powers conferred on each Department jointly and severally by virtue of those definitions

(**2**) S.I. 1991/762 (N.I. 7)

(**3**) S.R. 1995 No. 201

""Commission Decision 95/165" means Commission Decision 95/165/EC establishing uniform criteria for the grant of derogations to certain establishments manufacturing milk-based products(**4**);";

""Commission Decision 95/340" means Commission Decision 95/340/EC drawing up a provisional list of third countries from which Member States authorise imports of milk and milk-based products and revoking Decision 94/70/EC(**5**), as amended by Commission Decision 96/106/EC(**6**);";

(ii) for the definition of "EEA State" there shall be substituted the following definition—

""EEA State" means a State which is a Contracting Party to the EEA Agreement but does not include Iceland;";

(iii) in the definition of "limited production" there shall be substituted for the words "300,000 litres" the words "2 million litres";

(iv) the definition of "low capacity dairy establishment" shall be omitted;

(v) for the definition of "potable water" there shall be substituted the following definition—

""potable water" has the same meaning as in the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995(**7**);"; and

(vi) after the definition of "raw" there shall be inserted the following definition—

""risk analysis principles" means the principles referred to in Article 14(1) of Council Directive 92/46;";

(b) in paragraph (2) there shall be inserted at the end the words "and Commission Decisions 95/165 and 95/340".

4. In regulation 3 (exemptions), there shall be substituted for paragraph (3) the following paragraph—

"(3) Notwithstanding the exemption in paragraph (2) the requirements of—

(a) Parts II to IV of Schedule 6 (as read with regulation 9(1)(*d*) and (6)) shall apply in relation to the handling in and sale from any catering establishment or shop premises of any heat-treated cream;

(b) regulation 9(9) and Parts V and VI of Schedule 6 shall apply in relation to the handling in and sale from any catering establishment or shop premises of any ice-cream; and

(c) regulation 12 shall apply in relation to any catering establishment or shop premises selling drinking milk which is raw cows' milk;

and the other provisions of these Regulations shall apply to the extent necessary for the enforcement of those requirements.".

5. In regulation 6 (approval and use of dairy establishments)—

(a) in paragraph (1)(*b*) there shall be substituted for the words "paragraph (3)(*a*) or (8)" the words "this regulation";

(b) there shall be substituted for paragraph (8) the following paragraphs—

"(8) Notwithstanding that a dairy establishment which manufactures milk-based products does not comply with all or any of the requirements of Parts I and II

(**4**) O.J. No. L108, 13.5.95, p. 84
(**5**) O.J. No. L200, 24.8.95, p. 38
(**6**) O.J. No. L24, 31.1.96, p. 34
(**7**) S.R. 1995 No. 360 as amended by S.R. 1996 No. 286

of Schedule 2, the approving authority may approve that establishment as a dairy establishment if the criteria set out in paragraph (8A) are satisfied.

(8A) The criteria referred to in paragraph (8) are—

(a) in the case of an application by the occupier of the dairy establishment for an approval under this regulation, the occupier holds documents which can be used to determine the quantity of milk processed by the establishment during the previous year and can produce these documents for inspection by the approving authority;

(b) the dairy establishment processed during the previous year a quantity of milk of less than 2 million litres or the occupier of, or a person proposing to occupy, the dairy establishment gives an undertaking in writing to the approving authority that the quantity processed annually will not exceed that amount;

(c) the application for an approval under this regulation—

(i) states the name and address of the establishment,

(ii) states the quantity of milk processed by it during the year preceding that in which the application is made or contains an undertaking not to process a quantity in excess of 2 million litres annually,

(iii) states the nature of the documents which can be used to determine the quantity of milk processed by the establishment,

(iv) states the type and quantity of milk-based products manufactured by the establishment during the year preceding that in which the application is made,

(v) specifies those provisions of Parts I and II of Schedule 2 in respect of which exemption is sought, and

(vi) contains an undertaking to notify the approving authority immediately in writing where the establishment, having been approved in accordance with paragraph (8), processes a quantity of milk in excess of 2 million litres in any year; and

(d) the hygienic conditions of production in the dairy establishment will not be affected.

(8B) In the case of a dairy establishment approved in accordance with paragraph (8), it shall not be necessary for that establishment to comply with those requirements of Parts I and II of Schedule 2 in respect of which it has been exempted under that paragraph if and so long as—

(a) that establishment processes a quantity of milk not exceeding 2 million litres in any year,

(b) the occupier of the establishment produces to the approving authority for inspection, when reasonably requested to do so, documents which can be used to determine the quantity of milk processed by the establishment during the previous year, and

(c) conditions of production in the establishment are hygienic.

(8C) In paragraphs (8A) and (8B) "process" means use for the manufacture of milk-based products.".

6. In regulation 16 (enforcement and supervision) there shall be substituted for paragraphs (2) and (3) the following paragraphs—

"(2) The Department shall enforce and execute—