1988 No. 420

MILK

Importation of Milk Regulations (Northern Ireland) 1988

Made	*1st December 1988*
Coming into operation . .	*1st January 1989*

The Department of Agriculture, in exercise of the powers conferred on it by section 1 of the Importation of Milk Act 1983(**a**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Importation of Milk Regulations (Northern Ireland) 1988 and shall come into operation on 1st January 1989.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**b**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations—

"authorised officer" means an officer of any district council approved for the time being for the purposes of these Regulations by the Department, or any person authorised by the Department to act for the purposes of these Regulations;

"bulk milk" means milk other than specified drinking milk or cream;

"consignment" means the total amount of milk to which a single certificate (as described in regulation 4(1)(*a*)(iv)) relates;

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

"cream" has the same meaning as it has for the purposes of the Marketing of Milk Products Regulations (Northern Ireland) 1966(**d**);

"the Department" means the Department of Agriculture for Northern Ireland;

"designated place" means any place designated by an authorised officer;

(**a**) 1983 c. 37
(**b**) 1954 c. 33 (N.I.) as amended by 1972 c. 9 (N.I.) s. 149 and Sch. 8
(**c**) O.J. No. L226, 24.8.85, p. 13
(**d**) S.R. & O. (N.I.) 1966 No. 204; the relevant amending Regulations are S.R. 1981 No. 233 and S.R. 1983 No. 336

"drinking milk", "semi-skimmed milk", "skimmed milk" and "standardised whole milk" have the meanings respectively assigned to them by Council Regulation (EEC) No. 1411/71 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(**a**);

"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;

"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;

"milk" means cows' milk and includes cream and separated milk but not dried or condensed milk;

"milk-based drink" and "raw milk" have the same meanings as they have in the Milk Regulations (Northern Ireland) 1987(**b**);

"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 on the common organisation of the market in milk and milk products(**c**) or otherwise(**d**);

"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;

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

"processing" includes the heat treatment of milk or the manufacture of products;

"separated" in relation to milk, includes skimmed;

"specified drinking milk" means the following categories of drinking milk—

(*a*) semi-skimmed milk;

(*b*) skimmed milk;

(**a**) O.J. No. L148, 3.7.71, p. 4; the relevant amending instrument is Council Regulation (EEC) No. 566/76 (O.J. No. L67, 15.3.76, p. 23 Corrigendum at O.J. No. L107, 24.4.76, p. 22)

(**b**) S.R. 1987 No. 229

(**c**) O.J. No. L148, 28.6.68, p. 13. Article 2 specifies that the milk year shall begin on 1st April and end on 31st March of the following year

(**d**) Council Regulation (EEC) No. 1060/88 (O.J. 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 1st June 1988

(*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 Northern Ireland;

"ultimate consumer" means any person who buys milk otherwise than for the purpose 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.

(3) 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.

Prohibition on importation

3.—(1) Subject to regulation 4, a person shall not import into Northern Ireland milk intended by him for human consumption.

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

Exceptions to prohibition on importation

4.—(1) The prohibition on importation in regulation 3 shall not apply in respect of—

(*a*) milk imported into Northern Ireland which—

(i) is specified drinking milk, cream, milk-based drink or bulk milk;

(ii) has been pasteurised, sterilised or heat treated by the ultra high temperature method as specified in Schedule 1;

(iii) has been produced in, and is imported from, a Member State of the European Economic Community;

(iv) is accompanied by, and complies with, such certificate as the Department may from time to time require by notice published in the Belfast Gazette in relation to milk in general or milk of such description as may be specified in the notice;

(v) 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;

(vi) is imported through an authorised place of entry; and

(vii) 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;

(viii) in the case of sterilised milk is imported in the hermetically sealed container in which it was sterilised;

(ix) 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; or

(*b*) raw milk imported into Northern Ireland from the Republic of Ireland where the Department is satisfied that such milk or any semi-skimmed or skimmed milk derived from it will not be used for sale for direct consumption as liquid milk or cream.

(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 Department may by notice published in the Belfast 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 Department 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) A person shall not import any milk into Northern Ireland except in accordance with the procedure set out in Schedule 2.

(2) If any person imports any milk into Northern Ireland otherwise than in accordance with the procedure set out in Schedule 2 the Department 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.

(3) The provisions of this regulation shall not apply to raw milk imported into Northern Ireland from the Republic of Ireland in accordance with regulation 4(1)(*b*).

Application of other enactments relating to imported milk and milk brought to Northern Ireland from Great Britain

7.—(1) 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 in relation to—

(*a*) imported milk; and

(*b*) milk brought to Northern Ireland from Great Britain which satisfies the requirements set out in paragraph (2).

(2) The requirements mentioned in paragraph (1)(*b*) are that the milk is whole milk, semi-skimmed milk, skimmed milk, cream or milk-based drink and the milk—

(*a*) has been produced in Great Britain;

(*b*) has been subjected to a pasteurisation or sterilisation process or to treatment by the ultra high temperature method;

(*c*) if in retail containers has been packaged and labelled;

(*d*) if stored, has been stored; and

(*e*) has been transported while in Great Britain

in accordance with legislation having effect for the time being in Great Britain.

(3) In this regulation "whole milk" has the same meaning as it has in the Milk Regulations (Northern Ireland) 1987.

Powers of authorised officers

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

(2) 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)(*a*)(iv) so as to indicate clearly the requirement under the notice.

(3) An endorsement made under paragraph (2) 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(7)(*b*) of Schedule 2, or if a court of summary jurisdiction makes an order under paragraph 5(*b*) of Schedule 2 that the notice shall no longer have effect.

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.