1983 No. 338

MILK

Importation of Milk Regulations (Northern Ireland) 1983

Made . . . . . 26th October 1983

Coming into operation . . . 16th November 1983

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) 1983 and shall come into operation on 16th November 1983.

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 unless the context otherwise requires—

"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;

"catering establishment" means a restaurant, canteen, club, public house, school, hospital or other establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business (as defined in Section 70(1) of the Food and Drugs Act (Northern Ireland) 1958(**c**)), food is prepared for delivery to the ultimate consumer for immediate consumption;

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

"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;

"district council" has the meaning given to it in the Local Government Act (Northern Ireland) 1972(**e**);

"exportation" means removal to a place outside the United Kingdom;

"human consumption" 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 and "import" shall be construed accordingly;

"milk" includes cream and milk-based drink;

(**a**) 1983 c. 37
(**b**) 1954 c. 33 (N.I.)
(**c**) 1958 c. 27 (N.I.) as amended by S.R. & O. (N.I.) 1973 No. 211
(**d**) S.R. & O. (N.I.) 1966 No. 204 as amended by S.R. 1981 No. 233 and S.R. 1983 No. 336
(**e**) 1972 c. 9 (N.I.)

"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;

"raw milk", "semi-skimmed milk", "skimmed milk" and "milk-based drink" have the same meanings as they have in the Milk Regulations (Northern Ireland) 1981(**a**);

"standardised whole milk" means cows' milk (not being cream or milk-based drink) having a butterfat content of not less than 3.83%;

"ultimate consumer" means any person who buys otherwise than for the purpose of resale, of a catering establishment or of a manufacturing business;

"working day" means a day which is not a public holiday, Saturday or Sunday.

Prohibition on importation

3.—(1) Subject to regulation 4, no person shall 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 standardised whole milk, semi-skimmed milk, skimmed milk, cream or milk-based drink;

(ii) has been heat treated by the ultra high temperature method, as specified in Schedule 1, paragraph 1, or sterilised as specified in Schedule 1, paragraph 2;

(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 (if any) 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 in a closed container in which it is to be supplied to the ultimate consumer or to a catering establishment; and

(vii) is imported through an authorised place of entry; or

(*b*) cream imported into Northern Ireland which—

(i) has been heat treated by being heated to a temperature of not less than 80°C and retained at that temperature for not less than 15 seconds,

(ii) has been frozen immediately after that heat treatment,

(iii) is imported in a frozen state,

(iv) complies in all respects with the provisions of sub-paragraphs (*a*)(iii) to (vii); or

(**a**) S.R. 1981 No. 234 as amended by S.R. 1983 No. 337

(*c*) 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*) specifically, 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.

(3) The Department may in any notice in the Belfast Gazette designating a place of entry as an authorised place of entry require that up to 2 working days' notice be given to the Department of intention to import through that authorised place of entry.

Importation procedure

6.—(1) Schedule 2 shall apply for the procedure for importation of milk into Northern Ireland.

(2) No person shall import any milk into Northern Ireland except in accordance with the procedure set out in Schedule 2.

(3) 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 sold for human consumption in Northern Ireland.

(4) 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(*c*).

Milk brought to Northern Ireland from Great Britain

7.—(1) Where milk which is whole milk, semi-skimmed milk, skimmed milk, cream or milk-based drink is brought in retail containers to Northern Ireland from Great Britain, and that milk—

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

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

(*c*) 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, such milk may, subject to Schedule 3, be sold in Northern Ireland.

(2) In this regulation "whole milk" has the same meaning as it has in the Milk Regulations (Northern Ireland) 1981.

Application of Schedule 3

8. Schedule 3 shall apply in respect of the application of provisions made by or under certain enactments, the exclusion of the application of any such provision, the making of provision corresponding to any such provision and the modification of any such provision, in relation to imported milk and milk brought to Northern Ireland from Great Britain.

Powers of authorised officers

9.—(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.

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 £1,000.

(2) In any proceedings for an offence under these regulations where that offence comprises the importation of milk which is unfit for human consumption, it shall be a defence for the defendant to prove that at the time when he imported the milk he did not know, and could not with reasonable diligence have ascertained, that it was unfit for human consumption.

(3) A prosecution may be brought under this regulation notwithstanding that action may have been or remains to be taken in relation to the milk to which the prosecution relates, under regulation 6(3) or Schedule 2.

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland on 26th October 1983.

(L.S.) *S. R. Armstrong*
Assistant Secretary