STATUTORY INSTRUMENTS

1965 No. 363

FOOD AND DRUGS

COMPOSITION AND LABELLING

The Dried Milk Regulations 1965

Made - - - -	3*rd March* 1965
Laid before Parliament	9*th March* 1965
Coming into Operation	
Regulations 1 *and* 8(1)	10*th March* 1965
Remainder - -	11*th March* 1965

The Minister of Agriculture, Fisheries and Food and the Minister of Health, acting jointly, in exercise of the powers conferred on them by sections 4, 7 and 123 of the Food and Drugs Act 1955(a) and of all other powers enabling them in that behalf, hereby make the following regulations after consultation with such organisations as appear to them to be representative of interests substantially affected by the regulations and reference to the Food Hygiene Advisory Council under section 82 of the said Act (insofar as the regulations relate to the labelling, marking or description of food):—

Citation and commencement

1. These regulations may be cited as the Dried Milk Regulations 1965; and shall come into operation as follows:—

(*a*) this regulation and regulation 8(1) shall come into operation on 10th March 1965;

(*b*) in all other respects, these regulations shall come into operation on 11th March 1965.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Act" means the Food and Drugs Act 1955;

"container" includes any form of packaging of dried milk for sale as a single item, whether by way of wholly or partly enclosing the dried milk or by way of attaching the dried milk to some other article, and in particular includes a wrapper or confining band;

"dried milk" means milk, partly skimmed milk or skimmed milk, intended for sale for human consumption, which has been concentrated to the form of powder or solid by the removal of water, and includes any such milk which has been sweetened, modified or compounded;

"food and drugs authority" has the meaning assigned to it by section 83 of the Act;

(a) 4 & 5 Eliz. 2. c. 16.

"gross weight", in relation to a container, means the weight of the container and of its contents;

"human consumption" includes use in the preparation of food for human consumption;

"sale by retail" means sale to a person buying otherwise than for the purpose of resale;

"sell" includes offer or expose for sale or have in possession for sale; and "sale" and "seller" shall be construed accordingly;

"skimmed milk" includes separated or machine-skimmed milk;

"sugar" means the product usually known as sugar in commercial usage, consisting principally of sucrose;

AND other expressions have the same meaning as in the Act.

(2) Percentages shall be calculated by weight.

(3) These regulations apply to dried milk to which no other substance has been added and to the dried milk contained in any powder or solid of which not less than 70 per cent. consists of dried milk.

(4) The Interpretation Act 1889(a) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament, and as if these regulations and the regulations hereby revoked were Acts of Parliament.

General Exemptions and Savings

3.—(1) The following provisions of these regulations shall not apply—

(*a*) in relation to any dried milk intended at the time of sale for exportation to any place outside the United Kingdom;

(*b*) in relation to any dried milk supplied or intended for supply under Government Contracts for consumption by Her Majesty's Forces or intended at the time of sale for consumption by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(b);

(*c*) in relation to any sale of dried milk to a caterer for the purposes of his catering business or to a manufacturer for the purposes of his manufacturing business.

(2) Until the regulations specified in Schedule 3 to these regulations are revoked in accordance with regulation 8 hereof the following provisions of these regulations shall not have effect in relation to any dried milk sold in compliance with the provisions of the regulations specified in the said Schedule; and the provisions of the regulations so specified shall not have effect (pending their revocation in accordance with regulation 8 hereof) in relation to any dried milk which is sold in compliance with the following provisions of these regulations or to which any of the exemptions in these regulations apply.

Composition and description of dried milk

4.—(1) Dried milk of each description specified in column 1 of Schedule 1 to these regulations shall contain a percentage of milk fat within the limits specified in relation thereto in column 2 of that Schedule and shall contain not more than 5.0 per cent. of moisture, and no person shall sell any dried milk which does not comply with this regulation.

(a) 52 & 53 Vict. c. 63. (b) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 67.

(2) No person shall sell any food under such a description as to lead an intending purchaser to believe that he is purchasing dried milk of a description to which paragraph (1) of this regulation applies, unless such food complies with this regulation.

(3) Where a person sells any food to a purchaser in response to a request for dried milk of a description to which paragraph (1) of this regulation applies, he shall be deemed to sell dried milk of that description unless he clearly notifies the purchaser at the time of sale that the food is not dried milk of that description.

Labelling of containers of dried milk

5.—(1) Save as hereinafter provided, no person shall sell any dried milk except in a container bearing a label in accordance with the provisions of Schedule 2 to these regulations.

(2) No person shall expose or offer for sale by retail any dried milk in any such container if the container is wrapped in paper or some other wrapper through which the label on the container is not clearly visible unless the outermost wrapper also bears a label as if it were a container to which paragraph (1) of this regulation applies.

(3) The provisions of this regulation shall not apply in relation to any sale of dried milk for immediate consumption on or at the premises of the seller or in or at any stall or mobile refreshment vehicle.

Penalties and enforcement

6.—(1) If any person contravenes or fails to comply with any of the foregoing provisions of these regulations he shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both, and in the case of a continuing offence, to a further fine not exceeding five pounds for each day during which the offence continues after conviction.

(2) Each food and drugs authority shall enforce and execute such provisions in their area.

(3) The requirements of section 109(3) of the Act (which requires notice to be given to the Minister of Agriculture, Fisheries and Food of intention to institute proceedings for an offence against any provisions of these regulations relating to labelling or marking) shall not apply as respects any proceedings instituted by a council for an offence against any such provisions of these regulations.

Application of various sections of the Act

7.—(1) Sections 108(3) and (4) (which relate to prosecutions), 110(1), (2) and (3) (which relate to evidence of analysis), 112 (which relates to the power of a court to require analysis by the Government Chemist), 113 (which relates to a contravention due to some person other than the person charged), 115(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 116 (which relates to offences in relation to warranties and certificates of analysis) of the Act shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under or taken or brought under the Act included references to proceedings, or a prosecution as the case may be, taken or brought for an offence under these regulations and as if the reference in the said section 112 to subsection (4) of section 108 included a reference to that subsection as applied by these regulations.

(2) Paragraph (*b*) of the proviso to section 108(1) of the Act shall apply for the purposes of these regulations as if the reference therein to section 116 of the Act included a reference to that section as applied by these regulations.

Revocation

8.—(1) The Dried Milk Regulations 1964(a) are hereby revoked.

(2) The regulations specified in Schedule 3 to these regulations shall be revoked on 10th September 1965.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 26th February 1965.

(L.S.) *Frederick Peart,*
Minister of Agriculture, Fisheries and Food.

Given under the Official Seal of the Minister of Health on the 3rd March 1965.

(L.S.) *Kenneth Robinson,*
Minister of Health.

Regulation 4

SCHEDULE 1

DESCRIPTION AND COMPOSITION OF DRIED MILK

Column 1	Column 2
Description of dried milk	Percentage of milk fat
Dried full cream milk	Not less than 26
Dried three-quarter cream milk ...	Less than 26 and more than 17
Dried half cream milk	Not more than 17 and not less than 14
Dried quarter cream milk	Less than 14 and not less than 8
Dried partly skimmed milk	Less than 8 and not less than 1·5
Dried skimmed milk	Less than 1·5

(a) S.I. 1964/857 (1964 II, p. 1816).

Regulation 5

SCHEDULE 2

LABELLING OF CONTAINERS OF DRIED MILK

1.—(1) Subject to the provisions of this paragraph, every container to which regulation 5 relates shall bear a label upon which is printed such one of the following declarations as may be applicable:—

(*a*) In the case of dried full cream milk:—

> DRIED FULL CREAM MILK
> CONTAINS THE EQUIVALENT OF (X) PINTS
> OF MILK

(*b*) In the case of dried three-quarter cream milk, dried half cream milk, dried quarter cream milk and dried partly skimmed milk:—

> DRIED (Y) MILK
> SHOULD NOT BE USED FOR BABIES EXCEPT UNDER
> MEDICAL ADVICE
> CONTAINS THE EQUIVALENT OF (X) PINTS OF (W) MILK

(*c*) In the case of dried skimmed milk, either:—

> DRIED SKIMMED MILK
>
> > UNFIT FOR BABIES
> > [or NOT TO BE USED FOR BABIES]
>
> CONTAINS THE EQUIVALENT OF (X) PINTS OF SKIMMED MILK

or:—

> DRIED LOW-FAT SKIMMED MILK
> CONTAINS NOT MORE THAN (Z)% MILK FAT
>
> > UNFIT FOR BABIES
> > [or NOT TO BE USED FOR BABIES]
>
> CONTAINS THE EQUIVALENT OF (X) PINTS OF SKIMMED MILK

(2) The declaration printed on the label of a container to which regulation 5 applies shall, in the case of dried milk to which any substance other than sodium bicarbonate or sodium citrate has been added, be in the appropriate form

prescribed in sub-paragraph (1) of this paragraph with the following modifications:—

(*a*) There shall be added to the description of dried milk included in the declaration—

(i) the word "sweetened" where only sugar has been added;

(ii) the word "modified" where only a constituent of milk has been added; and

(iii) the word "compounded" in every other case.

(*b*) Except where sugar is the only added ingredient, the words "with (S) added" shall in every case follow the description of the dried milk, words being inserted at (S) to specify the substance or substances added.

(3) Where the gross weight of the container is more than 10 lb., the words "Contains the equivalent of (X) pints of milk" may be omitted from the declaration.

(4) Where the milk or any part thereof is other than cow's milk, a word or words denoting the animal or animals from which the milk has been derived shall be inserted immediately before the word "milk" wherever that word appears in the declaration.

2. The declaration shall in each case be completed as follows:—

(*a*) There shall be inserted at (X) the appropriate number or fraction in words or figures;

(*b*) There shall be inserted at (Y) the remainder of the appropriate description of dried milk in the terms set out in column 1 of Schedule 1 to these regulations and the same words shall be inserted at (W);

(*c*) There shall be inserted at (Z) the maximum milk fat content expressed as a percentage of the total weight of the dried milk;

(*d*) In the case of dried full cream milk, dried three-quarter cream milk, dried half cream milk, dried quarter cream milk and dried partly skimmed milk, the declaration may also include a statement of the milk fat content expressed as a percentage of the total weight of the dried milk, and, in the case of dried milk described as dried skimmed milk, the declaration may also include a statement of the maximum milk fat content expressed as aforesaid;

(*e*) The figure to be inserted at (X) shall, in the case of dried full cream milk, dried three-quarter cream milk, dried half cream milk or dried quarter cream milk, be such as to ensure that the equivalent quantity is accurately expressed in terms of milk of the appropriate description set out in column 1 of the following Table containing not less than the percentages of milk fat and milk solids including fat shown in relation thereto in columns 2 and 3 respectively and, in the case of dried partly skimmed milk or dried skimmed milk, be such as to ensure that the equivalent quantity is accurately expressed in terms of milk of the appropriate description set out in the said column 1 containing not less than the percentage of milk solids other than milk fat shown in relation thereto in column 4 of the following Table:—

TABLE

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Description of milk	Minimum percentage of milk fat	Minimum percentage of milk solids including milk fat	Minimum percentage of milk solids other than milk fat
Milk	3·6	12·4	—
Three-quarter cream milk	2·7	11·6	—
Half cream milk	1·8	10·8	—
Quarter cream milk	0·9	9·9	—
Partly skimmed milk	—	—	9
Skimmed milk	—	—	9

3.—(1) The prescribed declaration shall be printed distinctly and legibly in dark block type upon a light-coloured ground or in light block type upon a dark-coloured ground.

(2) There shall be a surrounding line enclosing the declaration and in cases in which the words "Unfit for babies" or "Not to be used for babies" are required to be used, there shall be another such line enclosing those words.

(3) The distance between any part of the words "Unfit for babies" or "Not to be used for babies" and the surrounding line enclosing those words shall be not less than one-sixteenth of an inch.

(4) No matter other than that prescribed in paragraphs 1 and 2 of this Schedule shall be printed within either surrounding line.

(5) The type used for the declaration shall not in any part be less than one-eighth of an inch in height and the type used for the words "Unfit for babies" or "Not to be used for babies" shall be not less than twice the height of any other part of the declaration, except that in the case of a container of dried milk containing the equivalent of a quarter of a pint of milk or less, the type used for the declaration shall not in any part be less than one-sixteenth of an inch in height and the type used for the words "Unfit for babies" or "Not to be used for babies" shall not be less than twice the height of any other part of the declaration.

4. Every label affixed pursuant to regulation 5 of these regulations shall—

(*a*) be securely affixed to, or form part of, the container;

(*b*) be so placed on the side or top of the container as to be clearly visible; and

(*c*) either form part of any main label, or be a separate label in close proximity to the main label.

5. There shall not be placed on any container containing dried milk—

(*a*) any comment on, explanation of, or reference to either the statement of equivalence contained in the prescribed declaration or the words "three-quarter", "half", "quarter", "partly skimmed", "skimmed", "low-fat", "unfit for babies" or "not to be used for babies"; or

(*b*) any instructions as to dilution, unless either—

(i) the fluid produced in accordance with such instructions would contain not less than 9 per cent. milk solids other than milk fat; or

(ii) such instructions clearly specify that the fluid so produced is not of equivalent composition to milk, three-quarter cream milk, half cream milk, quarter cream milk, partly skimmed milk or skimmed milk, as the case may be.

Regulation 8(2)

SCHEDULE 3

Column 1	Column 2
Regulations revoked on 10th September 1965	References
The Public Health (Dried Milk) Regulations 1923	S.R. & O. 1923/1323 (Rev. VIII, p. 42: 1923, p. 900).
The Public Health (Dried Milk) Amendment Regulations 1927	S.R. & O. 1927/1093 (Rev. VIII, p. 42: 1927, p. 459).
The Public Health (Dried and Condensed Milk) Regulations 1943	S.R. & O. 1943/896 (Rev. VIII, p. 42: 1943 I, p. 288).
The Public Health (Dried Milk) (Amendment) Regulations 1948	S.I. 1948/1123 (Rev. VIII, p. 42: 1948 I, p. 1227).

EXPLANATORY NOTE

(This Note is not part of the regulations, but is intended to indicate their general purport.)

These regulations which apply to England and Wales only, revoke the Dried Milk Regulations 1964 on 10th March 1965 (before those regulations would have come into operation) and re-enact with amendments the Public Health (Dried Milk) Regulations 1923 to 1948 on 11th March 1965. The Public Health (Dried Milk) Regulations 1923 to 1948 continue in force, however, for a transitional period ending on 10th September 1965. During that period, the provisions of these regulations will not have effect in relation to any dried milk sold in compliance with those regulations, and vice versa (regulation 3(2)).

The principal changes from the Public Health (Dried Milk) Regulations 1923 to 1948 are:—

(*a*) minimum and maximum percentages (calculated by weight) are prescribed for the milk fat content of dried three-quarter cream milk, dried half cream milk, dried quarter cream milk and dried partly skimmed milk (regulation 4(1) and Schedule 1);

(*b*) the upper limit for the milk fat content of dried skimmed milk has been reduced from 8 per cent. to 1·5 per cent. and the description "dried low-fat skimmed milk" is permitted as an alternative description (regulation 4 and Schedule 1);

(*c*) a maximum moisture content of 5 per cent. is prescribed for all descriptions of dried milk (regulation 4(1) and Schedule 1);

(*d*) containers bearing the description "dried low-fat skimmed milk" are required, and those bearing the description "dried skimmed milk" are permitted, to carry a declaration as to the maximum milk fat content of the dried milk in the container: and containers of any other dried milk are permitted to carry a declaration as to the actual milk fat content (regulation 5 and Schedule 2);

(*e*) the regulations do not apply to dried milk intended for export or for consumption by Her Majesty's Forces or by a visiting force or to any sale of dried milk to a caterer or manufacturer, and the labelling provisions therein do not apply to any sale of dried milk for immediate consumption (regulations 3 and 5(3)).