STATUTORY INSTRUMENTS

1964 No. 871 (S. 59)

FOOD AND DRUGS

COMPOSITION AND LABELLING—SCOTLAND

The Dried Milk (Scotland) Regulations 1964

Made - - - -	11*th June* 1964
Laid before Parliament	22*nd June* 1964
Coming into Operation	11*th March* 1965

In exercise of the powers conferred upon me by sections 4, 7 and 56 of the Food and Drugs (Scotland) Act 1956(a), and of all other powers enabling me in that behalf, and after consultation with such organisations as appear to me to be representative of interests substantially affected by these regulations and after reference to the Scottish Food Hygiene Council under section 25 of the said Act (insofar as the regulations relate to the labelling, marking or description of food), I hereby make the following regulations :—

Citation and commencement

1. These regulations may be cited as the Dried Milk (Scotland) Regulations 1964 and 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 (Scotland) Act 1956 ;

" 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 ;

" 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.

(a) 4 & 5 Eliz. 2. c. 30.

(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 for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Enforcement

3.—(1) The local authority of any area shall, subject to the provisions of the next following paragraph, enforce and execute the provisions of these regulations within their area.

(2) Where any part of the area of a local authority lies within the area of a port local authority such of the functions of the local authority under these regulations in relation to any food imported into that part shall, insofar as these functions fall to be exercised by the port local authority by virtue of any order made under section 172 of the Public Health (Scotland) Act 1897(b), be exercised by that port local authority.

(3) In this regulation "local authority" means the council of a county or of a large burgh within the meaning of the Local Government (Scotland) Act 1947(c); and any small burgh within the meaning of that Act shall, for the purposes of these regulations, be included in the county in which it is situated; and "port local authority" includes a joint port local authority.

Exemptions

4. 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 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(d);

(*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;

(*d*) 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.

Composition and description of dried milk

5.—(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.

(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

(a) 52 & 53 Vict. c. 63.
(b) 60 & 61 Vict. c. 38.
(c) 10 & 11 Geo. 6. c. 43.
(d) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 67.

applies, he shall be deemed to sell dried milk of, and under, 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

6.—(1) 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.

Penalties

7.—(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 under these regulations.

(2) Any person who is guilty of an offence under these regulations shall be liable:—

(*a*) on summary conviction to:—

(i) a fine not exceeding £100 or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment; and

(ii) in the case of a continuing offence, to a further fine not exceeding £10 for every day during which the offence is continued; or

(*b*) on conviction on indictment to:—

(i) a fine not exceeding £500 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and

(ii) in the case of a continuing offence, to a further fine not exceeding £50 for every day during which the offence is continued.

Application of various sections of the Act

8.—(1) Sections 41(2) and (5) (which relate to proceedings), 42(1), (2) and (3) (which relate to evidence of certificates of analysis), 44 (which relates to the power of a court to require analysis by the Government Chemist), 46(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 47 (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 under the Act included references to proceedings, or a prosecution as the case may be, taken for an offence against these regulations and in addition as if—

(*a*) in the case of section 44(1) of the Act, the reference therein to section 41(5) of the Act included a reference to said section 41(5) as applied by these regulations; and

(*b*) in the case of section 47(1) and (2) of the Act, the references therein to an offence against the Act included references to an offence against these regulations.

(2) Section 41(4) of the Act shall apply for the purposes of these regulations as if the reference therein to section 47 of the Act included a reference to said section 47 as applied by these regulations.

Revocation

9.—(1) The regulations specified in Schedule 3 to these regulations are hereby revoked.

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if any orders revoked by these regulations were Acts of Parliament repealed by an Act of Parliament.

Michael Noble,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
11th June 1964.

SCHEDULE 1

Regulation 5

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 or dried low-fat skimmed milk.	Less than 1·5.

SCHEDULE 2

Regulation 6

LABELLING OF CONTAINERS OF DRIED MILK

1.—(1) Subject to the provisions of this paragraph, every container to which regulation 6 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 or dried low-fat skimmed milk:—

DRIED SKIMMED MILK
[or DRIED LOW-FAT SKIMMED MILK]
CONTAINS (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 6 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 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 ;

(*e*) The figure to be inserted at (X) shall be such as to ensure that the equivalent quantity shall be of milk of the 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,

TABLE

Column 1	Column 2	Column 3
Description of milk	Minimum percentage of milk fat	Minimum percentage of milk solids including 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

and the descriptions "skimmed milk" and "partly skimmed milk" shall mean milk which contains not less than 9 per cent. of milk solids other than milk fat.

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 be not less than twice the height of any other part of the declaration.

4. Every label affixed pursuant to regulation 6 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, partly skimmed milk or skimmed milk, as the case may be.

Regulation 9 SCHEDULE 3

Column 1	Column 2
Regulations revoked	References
The Public Health (Dried Milk) Regulations (Scotland) 1931.	S.R. & O. 1931/1 (Rev. VIII, p. 47: 1931, p. 1111).
The Public Health (Condensed and Dried Milk) Amendment Regulations (Scotland) 1943.	S.R. & O. 1943/1061 (Rev. VIII, p. 35: 1943 I, p. 289).

EXPLANATORY NOTE

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

These regulations, which apply to Scotland only, re-enact with amendments the Public Health (Dried Milk) Regulations (Scotland) 1931 and the Public Health (Condensed and Dried Milk) Amendment Regulations (Scotland) 1943. The principal changes 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 5(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 5 and Schedule 1);

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

(*d*) containers of dried skimmed milk are required, and containers of any other dried milk are permitted, to carry a declaration as to the milk fat content (regulation 6 and Schedule 2);

(*e*) the regulations do not apply to dried milk intended for export or for consumption by a visiting force, to any sale of dried milk to a caterer or manufacturer nor to any sale for immediate consumption (regulation 4).

The regulations come into operation on 11th March 1965.