STATUTORY INSTRUMENTS

1965 No. 1007 (S. 35)

FOOD AND DRUGS

COMPOSITION AND LABELLING—SCOTLAND

The Dried Milk (Scotland) Regulations 1965

Made - - - -	14*th April* 1965
Laid before Parliament	27*th April* 1965
Coming into Operation	28*th April* 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 1965 and shall come into operation on 28th April 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.

General 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 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(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.

Transitional

5.—(1) The provisions of this regulation shall have effect in relation to dried milk sold before 10th September 1965 other than dried milk—

(*a*) so sold in compliance with the provisions of the following regulations of these regulations; or

(*b*) exempted from compliance with the provisions of these regulations by any such provision.

(2) No person shall sell or expose for sale or deposit in any place for the purposes of sale, or despatch or deliver to any purchaser, broker, or agent any dried milk intended for human consumption unless the dried milk—

(i) is contained in a tin or other receptacle which is labelled in the manner prescribed in Schedule 3 to these Regulations; and

(ii) contains not less than the following percentages of milk fat, viz.:—in the case of milk described as dried full cream milk, not less than 26 per cent.; in the case of milk described as dried three-quarter cream milk, not

(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.

less than 20 per cent.; in the case of milk described as dried half cream milk, not less than 14 per cent.; and in the case of milk described as dried quarter cream milk, not less than 8 per cent.:

Provided that—

(*a*) the provisions of this paragraph shall not apply in any case where the dried milk is contained in a tin or other receptacle whose gross weight exceeds ten pounds; and

(*b*) where dried milk is sold by weight and is not placed in the tin or other receptacle in which it is delivered to the purchaser until immediately before such delivery, the provisions of paragraphs 1 to 4 of Schedule 3 shall be deemed to be satisfied if the matter therein required to appear on a label affixed to the tin or other receptacle is printed on a separate label or notice delivered to the purchaser, and the last sentence of the declaration required by paragraph 1 of Schedule 3 may be varied so as to relate to one pound or to any other specified weight of the article sold instead of the contents of the actual tin or other receptacle.

(3) Where a tin or other receptacle containing dried machine-skimmed milk (or dried skimmed milk) is required by paragraph 1 of Schedule 3 to be labelled, no person shall expose or offer for sale such a tin or receptacle in a paper or other wrapper unless the words "unfit for babies" or "not to be used for babies" are printed on the outside of such wrapper within a surrounding line, the type used for the words being not less than a quarter of an inch in height and the printing being otherwise in accordance with the rules prescribed for the printing of the same matter on the label affixed to the tin or other receptacle.

Composition and description of dried milk

6.—(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 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

7.—(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

8.—(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

9.—(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

10.—(1) The Dried Milk (Scotland) Regulations 1964(**a**) are hereby revoked and regulation 5 of these regulations shall be revoked on 10th September 1965.

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

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
14th April 1965.

(a) S.I. 1964/871 (1964 II, p. 1828).

Regulation 6 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.

Regulation 7 SCHEDULE 2

LABELLING OF CONTAINERS OF DRIED MILK

1.—(1) Subject to the provisions of this paragraph, every container to which regulation 7 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 7 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 and 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 partly skimmed milk and skimmed milk, be such as to ensure that the equivalent quantity is accurately expressed in terms of milk of the 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:—

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

4. Every label affixed pursuant to regulation 7 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.

SCHEDULE 3 Regulation 5

Alternative Provisions with respect to the Composition and Labelling of Dried Milk

1.—(1) Every tin or other receptacle containing dried milk (other than dried milk to which sugar or some other substance has been added) shall bear a label upon which is printed such one of the following declarations as may be applicable:

(i) In the case of full cream milk, that is to say, dried milk containing not less than 26 per cent. of milk fat:—

DRIED FULL CREAM MILK
THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF MILK

(ii) In the case of partly skimmed milk, that is to say, dried milk containing not less than 8 per cent. but less than 26 per cent. of milk fat:—

DRIED PARTLY SKIMMED MILK
(*b*) CREAM
SHOULD NOT BE USED FOR BABIES EXCEPT UNDER MEDICAL ADVICE
THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF (*b*) CREAM MILK

(iii) In the case of skimmed milk, that is to say, dried milk containing less than 8 per cent. of milk fat:—

DRIED MACHINE-SKIMMED MILK
[OR DRIED SKIMMED MILK]

UNFIT FOR BABIES
[OR NOT TO BE USED FOR BABIES]

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF SKIMMED MILK

(2) The label on any tin or other receptacle containing dried milk to which sugar or some other substance has been added shall be in the appropriate form prescribed in sub-division (1) hereof, with the following modifications:—

(i) There shall be added to the heading the word "sweetened" if the only substance added to the milk is sugar; the word "modified" if the only substance added is a constituent of milk, and the word "compounded" in every other case; and

(ii) The words "with (*c*) added" shall be added to the last sentence in each case, words being inserted at (*c*) to specify the substance or substances added.

(3) The declaration shall be completed as follows:—

(i) There shall be inserted at (*a*) the appropriate number in words and figures, *e.g.*, "one-and-a-half (1½)," any fraction being expressed as eighths, quarters or a half.

(ii) There shall be inserted at (*b*) the word "Three-quarter" if the percentage of milk fat is not less than 20; "Half" if such percentage is less than 20 but not less than 14; and "Quarter" if such percentage is less than 14 but not less than 8.

(4) For the purposes of this paragraph the terms "Milk," "Three-quarter cream milk," "Half cream milk" and "Quarter cream milk" mean milk containing not less than the following percentages of milk fat and milk solids, that is to say:—

	Milk fat	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	·9	9·9

and "Skimmed milk" means milk which contains not less than 9 per cent. of milk solids other than milk fat.

2.—(1) The prescribed declaration shall be printed in dark block type upon a light coloured ground.

(2) There shall be a surrounding line enclosing the declaration and in the 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 hereinbefore prescribed 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 (or if the gross weight of the tin or other receptacle does not exceed twelve ounces, 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.

3. The label shall in addition bear the name and address of the manufacturer of the dried milk or of the dealer or merchant in the United Kingdom for whom it is manufactured.

4. The label shall be securely affixed to the tin or other receptacle so as to be clearly visible. If there is attached to the tin or other receptacle a label bearing the name, trade mark, or design representing the brand of the dried milk, the prescribed declaration shall be printed as part of such label.

5. There shall not be placed on any tin or other receptacle 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 " partly-skimmed," " machine-skimmed," " skimmed," or " 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 milk fat and not less milk solids than milk, partly skimmed milk, or skimmed milk as defined in paragraph 1 of this Schedule, as the case may require ; 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.

6. Wherever the word " milk " appears on the label of a tin or other receptacle of dried partly skimmed, or skimmed milk as the description or part of the description of the contents, it shall be immediately preceded or followed by the words " partly skimmed," " machine-skimmed," or " skimmed," as the case may require.

EXPLANATORY NOTE

(*This Note is not part of the regulations.*)

These regulations, which come into operation on 28th April 1965 and apply to Scotland only, revoke the Dried Milk (Scotland) Regulations 1964. Until 10th September 1965 dried milk may comply with the provisions in force prior to the operation of the 1964 regulations or with the provisions of these regulations (regulation 5(1)).

The principal changes from the 1964 regulations are :—

(*a*) 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 of 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 of the actual milk fat content (regulation 7 and Schedule 2) ;

(*b*) the regulations do not apply to dried milk intended for consumption by Her Majesty's forces and the labelling provisions therein do not apply to any sale of dried milk for immediate consumption (regulations 4 and 7(3)).