1990 No. 1584

FOOD

The Milk and Dairies and Milk (Special Designation) (Charges) Regulations 1990

Made - - - -	*31st July 1990*
Laid before Parliament	*6th August 1990*
Coming into force -	*27th August 1990*

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by sections 33, 38 and 118 of the Food Act 1984(a) and now vested in them(b) and of all other powers enabling them in that behalf, hereby make the following Regulations after consultation in accordance with section 118(6) of that Act with such organisations as appear to them to be representative of interests substantially affected by the Regulations:–

Title and commencement

1. These Regulations may be cited as the Milk and Dairies and Milk (Special Designation) (Charges) Regulations 1990, and shall come into force on 27th August 1990.

Interpretation

2.—(1) In these Regulations, except where the context requires otherwise–

"the Act" means the Food Act 1984;

"the Board" means the Milk Marketing Board for England and Wales established by the Milk Marketing Scheme (Approval) Order 1933(c);

"cow" means a cow kept for milking purposes whether dry or in milk but does not include a heifer which has never calved;

"dairy farm visit" means a visit to a registered dairy farm by an inspector and the undertaking by him there of inspection, sampling or both for the purpose of ascertaining whether provisions of the principal Regulations are being complied with, and–

(a) "sampling dairy farm visit" means a dairy farm visit for the sole purpose of taking samples of milk or water or both, and

(b) "general dairy farm visit" means any other dairy farm visit;

"follow-up visit" means a sampling dairy farm visit arising out of findings of a previous sampling dairy farm visit for which a charge has been made under these Regulations, and findings of any follow-up visit shall be treated as if they were also findings of that previous sampling dairy farm visit;

(a) 1984 c.30; section 132(1) contains a definition of "the Ministers" relevant to the exercise of the statutory powers under which these Regulations are made.

(b) In the case of the Secretary of State for Health, by virtue of S.I. 1988/1843.

(c) S.R. & O. 1933/789, to which there are amendments not relevant to these Regulations.

"inspector" means an inspector or authorised officer of the Minister;

"the Minister" means–

(a) except in regulation 4, the Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly, and

(b) in regulation 4–

(i) in respect of registered dairy farms wholly in Wales, the Secretary of State, and

(ii) in respect of other registered dairy farms, the Minister of Agriculture, Fisheries and Food;

'the principal Regulations" means the Milk and Dairies (General) Regulations 1959(a), the Milk (Special Designation) Regulations 1989(b) or both;

"registered dairy farm" means a farm registered under regulation 6 of the Milk and Dairies (General) Regulations 1959;

"registered dairy farmer" means a person registered under regulation 6 of the Milk and Dairies (General) Regulations 1959; and

"served" means served in accordance with section 125 of the Act.

(2) Any reference in these Regulations to a numbered regulation shall, unless the reference is to a regulation of specified Regulations, be construed as a reference to the regulation so numbered in these Regulations.

Liability to charges

3.—(1) For the purposes of the principal Regulations, and subject to paragraphs (2) and (3) hereof, there shall be due from the registered dairy farmer to the Minister, in respect of any matter specified in the first column of the Schedule to these Regulations, the charge specified in relation thereto in the second column thereof.

(2) The charge due under the first item of the Schedule to these Regulations shall be the higher rate of charge unless the number of cows on the registered dairy farm at the time of commencement of the dairy farm visit is less than twenty and the registered dairy farmer provides to the inspector, no later than at the time at which the charge is recovered, a written declaration to that effect, in which case the charge due shall be the lower rate of charge.

(3) Notwithstanding paragraphs (1) and (2) hereof, no charge shall be due in respect of any dairy farm visit–

(a) for the purpose of ascertaining whether there is a particular threat to public health, or for the purpose of taking measures to reduce such a threat,

(b) in connection with an untreated milk producer's licence granted in accordance with the Milk (Special Designation) Regulations 1989 solely for the sale of milk under the conditions described in paragraph A4(1)(c) of Schedule 2 to those Regulations (farmhouse catering), or

(c) in connection with a consent granted under section 42 of the Act to sell milk without the use of a special designation.

Recovery of charges

4.—(1) Where–

(a) a charge is due under regulation 3,

(b) there is due from the Board to the registered dairy farmer a sum of money not less than that charge, and

(c) no determination has been made by the Minister and communicated by him to the Board that the charge should be collected directly by him,

such charge shall be recovered by the Board on behalf of the Minister by deduction of a sum equal to that charge from such sum of money.

(a) S.I. 1959/277, amended by S.I. 1960/1777, 1962/1288, 1973/1064, 1977/171, 1979/1567, 1982/1703, 1983/1563 and 1985/68.

(b) S.I. 1989/2383.

(2) The Minister shall notify the registered dairy farmer before any deduction is made by the Board under paragraph (1) hereof.

(3) The Minister shall meet such reasonable costs as the Board may incur in recovering charges under paragraph (1) hereof.

(4) Any charge due under regulation 3 which is not recoverable under paragraph (1) hereof shall become payable on a demand being served on the registered dairy farmer by the Minister.

(5) Any sum remaining unpaid may be recovered by the Minister from the registered dairy farmer as a civil debt.

Revocation of previous regulations

5. The Milk and Dairies and Milk (Special Designation) (Charges) Regulations 1987**(a)** and the Milk and Dairies and Milk (Special Designation) (Charges) (Amendment) Regulations 1989**(b)** are hereby revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 31st July 1990.

L.S.

Trumpington
Minister of State, Ministry of Agriculture, Fisheries and Food

31st July 1990

Kenneth Clarke
Secretary of State for Health

31st July 1990

David Hunt
Secretary of State for Wales

SCHEDULE

Regulation 3

Matter	*Charge* £
1. General dairy farm visit	
(a) higher rate of charge;	87.00
(b) lower rate of charge.	67.00
2. Sampling dairy farm visit (other than a follow-up visit).	35.00
3. Sampling dairy farm visit (being a second or subsequent follow-up visit).	23.00

(a) S.I. 1987/212, amended by S.I. 1989/376.
(b) S.I. 1989/376.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to England and Wales, revoke and re-enact with modifications the Milk and Dairies and Milk (Special Designation) (Charges) Regulations 1987 as amended. The Regulations impose revised charges for visits to dairy farms by persons authorised by the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales for the purpose of ascertaining whether provisions of the Milk and Dairies (General) Regulations 1959 and the Milk (Special Designation) Regulations 1989 are being complied with. There is provision for charging at a lower rate in specified circumstances where the number of cows kept for milking purposes is less than 20. The charges are set out in the Table below:–

Matter		*Charge under 1987 Regulations*	*Charge under these Regulations*
A1.	Dairy farm visit other than a dairy farm visit for the sole purpose of taking samples of milk or of water or both:		
	(a) higher rate of charge;	£78.00	£87.00
	(b) lower rate of charge.	£60.00	£67.00
A2.	First further dairy farm visit arising out of the finding of a dairy farm visit in A1:		
	(a) higher rate of charge;	–	£87.00
	(b) lower rate of charge.	–	£67.00
A3.	Subsequent further dairy farm visit as in A2:		
	(a) higher rate of charge;	£78.00	£87.00
	(b) lower rate of charge.	£60.00	£67.00
B1.	Dairy farm visit for the sole purpose of taking samples of milk or of water or both.	£26.00	£35.00
B2.	First follow-up visit.	–	–
B3.	Each subsequent follow-up visit.	–	£23.00

95p net

ISBN 0 11 004584 X

Printed in the United Kingdom for HMSO

845 WO1455 C15 8/90 452/3 4235 46378 901945