STATUTORY INSTRUMENTS

1981 No. 322

AGRICULTURE

The Milk Marketing Boards (Special Conditions) Regulations 1981

Made - - - -	3*rd March* 1981
Laid before Parliament	11*th March* 1981
Coming into Operation	1*st April* 1981

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated (**a**) for the purposes of section 2(2) of the European Communities Act 1972 (**b**) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following regulations:-

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Milk Marketing Boards (Special Conditions) Regulations 1981 and shall come into operation on 1st April 1981.

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

"the appropriate Minister"—

(*a*) in relation to England, means the Minister;

(*b*) in relation to any other part of Great Britain, means the Secretary of State; and

(*c*) in relation to Northern Ireland, shall be construed in accordance with paragraph (3) below;

"authorised officer" means a person authorised by the appropriate Minister for the purposes of these regulations;

"the Commission Regulation" means Commission Regulation (EEC) No. 1565/79 of 25th July 1979 (**c**) laying down rules for implementing the Council Regulation;

"the Council Regulation" means Council Regulation (EEC) No. 1422/78 of 20th June 1978 (**d**) concerning the granting of certain special rights to milk producer organisations in the United Kingdom;

(**a**) S.I. 1972/1811.
(**b**) 1972 c. 68.
(**c**) O.J. No. L188, 26.7.79, p. 29.
(**d**) O.J. No. L171, 28.6.78, p. 14.

"the milk marketing boards" means the Milk Marketing Board, the Scottish Milk Marketing Board, the Aberdeen and District Milk Marketing Board, the North of Scotland Milk Marketing Board and the Milk Marketing Board for Northern Ireland, and "the relevant board", in relation to a producer of milk in a particular area of the United Kingdom, means that one of the milk marketing boards which operates in that area;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

and other expressions have the same meaning as in the Council Regulation or the Commission Regulation.

(3) In their application to Northern Ireland these regulations shall have effect with the substitution, for references to the appropriate Minister, of references to the Department of Agriculture for Northern Ireland.

Competent authority

2. For the purposes of Articles 3(1), 4(2) and the second paragraph of Article 5(1) of the Commission Regulation (which require notification to the competent authority and the relevant board of a producer's intention to exercise the rights referred to in Articles 7(1)(a), 7(1)(b) and 8(1)(b) respectively of the Council Regulation) the competent authority shall be the appropriate Minister.

Exportation of milk withheld from milk marketing boards

3. A producer withholding milk in exercise of the right referred to in Article 7(1)(a) of the Council Regulation (which enables a producer, on giving the notice prescribed by Article 3(1) of the Commission Regulation, to withhold milk from sale to the relevant board with a view to marketing it in processed or unprocessed form in another Member State or in a third country) shall—

(*a*) export, or cause to be exported, the milk so withheld, or the produce resulting from its processing, within a period of 2 years beginning with the date of withholding, and

(*b*) provide the appropriate Minister with such documentary proof of the exportation, within such time thereafter, as that Minister may by notice to the producer reasonably require;

and he and any other producer with whom, or any intermediary through whom, he has acted shall retain contracts, records and other documents belonging to any one of them and relating to the exportation of the milk for 3 years from the end of the calendar year to which those documents relate, and produce them on demand to an authorised officer (who shall if required produce his credentials).

Sale into intervention of milk products processed from milk withheld from milk marketing boards

4.—(1) The provisions of this regulation shall apply in respect of milk withheld by a producer in exercise of the right referred to in Article 7(1)(b) of the Council Regulation (which enables a producer, after giving the notice of intention to do so prescribed by Article 4(2) of the Commission Regulation, to withhold milk from sale to the relevant board with a view to its conversion into butter or skimmed milk powder to be sold to the intervention agency, where it is established that the price paid to the producer by the relevant board, over a period determined under Article 4(1) of the Commission Regulation, has fallen below the level mentioned in the said Article 7(1)(b)).

(2) The said producer shall—

(*a*) within a period of 2 years from the date of withholding, convert the milk into butter or skimmed milk powder and offer it for sale to the intervention agency, or cause it to be so converted and so offered for sale;

(*b*) provide the appropriate Minister with such documentary proof of the conversion and offer for sale, and of the acceptance or rejection of the offer, within such time thereafter, as that Minister may by notice to the producer reasonably require;

and he and any other producer with whom, or any intermediary through whom, he has acted shall retain contracts, records and other documents belonging to any one of them and relating to the matters mentioned in sub-paragraphs (*a*) and (*b*) above for 3 years from the end of the calendar year to which those documents relate, and produce them on demand to an authorised officer (who shall if required produce his credentials).

Intervention price equivalent of milk

5.—(1) For the purpose of enabling milk producers to determine the milk price resulting from the intervention prices applicable, the Minister shall—

(*a*) cause to be calculated monthly by a qualified person, and to be published, an intervention price equivalent of milk on the basis of average margins and conversion factors, and

(*b*) take such other steps as appear to him best suited for bringing to the notice of milk producers that intervention price equivalent and such information as is required for the purpose aforesaid.

(2) A person is a qualified person for the purposes of this regulation if the Minister considers him to be competent for those purposes and independent of the milk marketing boards.

Power to obtain information on milk product prices

6.—(1) With a view to implementing Article 6(4) of the Commission Regulation (which requires the comparison on a regular basis of the first-hand selling prices realised on the United Kingdom market by the principal milk products made from milk sold by the milk marketing boards and by similar milk products imported into the United Kingdom from other Member States) the Minister may serve on any person concerned (whether as principal or agent) in the manufacture or import of, or in the wholesale trade in, milk products, notice requiring him to furnish in writing to such person as may be specified in the notice, such information as may be so specified relating to the sale of milk products.

(2) Without prejudice to the generality of paragraph (1) above, the information required may relate to the sale of particular milk products and may include information as to prices, quantities sold, the specification and age of the milk products, terms and conditions relating to the sale, and, in relation to imported milk products, their country of origin.

(3) The said information shall be furnished in such form and manner as may be specified in the notice and within such time and with respect to such dates or periods as may be so specified.

Restriction on disclosure of information

7.—(1) Subject to paragraph (2) below, no information relating to any particular sale of milk products which has been obtained under regulation 6 above shall be published or otherwise disclosed without the previous consent in writing of the person by whom the information was furnished and of every

person who was a party to the sale and whose interests may in the opinion of the Minister be affected by the disclosure.

(2) Nothing in paragraph (1) above shall restrict the disclosure of information -

(*a*) to the Minister in charge of any Government department, to a person exercising functions on behalf of any such Minister for the purpose of the exercise of those functions or to a person specially authorised in writing by any such Minister to receive the information;

(*b*) to an institution of the European Communities in pursuance of a Community obligation;

(*c*) to any person for the purposes of criminal proceedings under these regulations or for the purposes of any report of such proceedings.

Service of notices

8.—(1) A notice authorised by any provision of these regulations to be served on any person shall be duly served if it is delivered to him, or left at his proper address or sent to him by post in a registered letter or by the recorded delivery service.

(2) Any such notice authorised to be served on an incorporated company or body shall be duly served if served on the secretary or clerk of the company or body.

(3) For the purposes of this regulation and of section 7 of the Interpretation Act 1978 (**a**), the proper address of a person shall, in the case of the secretary or clerk of an incorporated company or body be that of the registered or principal office of the company or body, and in any other case be the last known address of the person in question.

Offences

9.—(1) A person who purports to exercise a right referred to in Article 7(1)(a), 7(1)(b) or 8(1)(b) of the Council Regulation without having given to the appropriate Minister and the relevant board notice of his intention to do so as required by Article 3(1), 4(2) or the second paragraph of Article 5(1) respectively of the Commission Regulation shall, in the absence of a reasonable excuse, be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) A person who without reasonable excuse contravenes any provision of these regulations mentioned in this paragraph shall be guilty of an offence and liable as follows, that is to say,—

(*a*) for contravening regulation 3(*a*) or 4(2)(*a*), on summary conviction to a fine not exceeding £1000 or on conviction on indictment to a fine;

(*b*) for contravening regulation 3(*b*) or 4(2)(*b*), on summary conviction to a fine not exceeding £200;

(*c*) for failing to retain documents as required by regulation 3 or 4(2), on summary conviction to a fine not exceeding £50.

(3) A person who without reasonable excuse fails to furnish information in compliance with a requirement under regulation 6 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(4) If any person—

(**a**) 1978 c. 30.

(*a*) in purported compliance with a requirement under regulation 6 knowingly or recklessly furnishes any information which is false in a material particular, or

(*b*) publishes or otherwise discloses any information in contravention of regulation 7,

he shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £1000 or both, or on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine or both.

Defence available to a person charged with an offence

10. In any proceedings for an offence under these regulations, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

Supplementary

11.—(1) Where an offence under these regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members the provisions of paragraph (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 2nd March 1981.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

3rd March 1981.

George Younger,
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations implement United Kingdom obligations created by Commission Regulation (EEC) No. 1565/79 (O.J. No. L188, 26.7.79, p. 29) which itself lays down rules for implementing Council Regulation (EEC) No. 1422/78 (O.J. No. L171, 28.6.1978, p. 14), concerning the grant of certain special rights to milk producer organisations in the United Kingdom.

2. In implementation of these obligations, these regulations require,—

(*a*) where a producer has given notice of intention to export, that within 2 years the milk be exported in unprocessed or processed form, that documentary proof of exportation be supplied, and that contracts, records and other documents be retained for production (regulation 3);

(*b* where a producer has given notice of intention to convert milk into butter or skimmed milk powder for sale into intervention, that within 2 years the milk be converted and the resulting butter or skimmed milk powder offered for sale to the intervention agency, that documentary proof of the conversion and offer for sale be supplied, and that contracts, records and other documents be retained for production (regulation 4(2)).

3. Where a producer acts with other producers, or through intermediaries, or both, these other producers or intermediaries must retain relevant contracts, records and other documents for 3 years and produce them on demand (regulations 3 and 4(2)).

4. By the Community instruments the United Kingdom is required to calculate and publish the intervention price equivalent of milk: this is provided for in regulation 5. The United Kingdom is also required to adopt measures for the comparison on a regular basis of prices realised on the United Kingdom market by milk products made from milk sold by the milk marketing boards with those realised by similar milk products imported into the United Kingdom from other Member States. For this purpose, regulation 6 empowers the Minister to obtain from persons involved in the manufacture, import or wholesale trade in milk products, information relating to the sale of milk products, including information as to the price obtained, the quantities sold and the country of origin. Provisions restricting the disclosure of information and concerning the service of notices are contained in regulations 7 and 8 respectively.

5. Penalties are prescribed by regulation 9. Regulation 10 relates to the defence of due diligence and regulation 11 is supplementary.

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