STATUTORY INSTRUMENTS

1980 No. 1863

FOOD AND DRUGS

MILK AND DAIRIES

The Milk (Special Designation) (Amendment) (No. 2) Regulations 1980

Made - - - -	*3rd December* 1980
Laid before Parliament	*11th December* 1980
Coming into Operation	*1st January* 1981

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Social Services and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred upon them by sections 35, 87 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 consultations with such organisations as appear to them to be representative of interests substantially affected by the regulations:—

Citation and commencement

1. These regulations may be cited as the Milk (Special Designation) (Amendment) (No. 2) Regulations 1980 and shall come into operation on 1st January 1981.

Amendment of the principal regulations

2. The Milk (Special Designation) Regulations 1977(**b**) shall be further amended as follows:—

(*a*) by substituting in regulation 2(1) thereof for the definition of "dealer's licence" and "licensed dealer" the following definitions:—

" 'dealer's licence' means a licence granted to any person to use the special designations 'Pasteurised', 'Sterilised' or 'Ultra Heat Treated' in relation to milk sold by him, not being milk sold, or appropriate to be sold, by him in accordance with the terms of a producer's licence or of an untreated milk distributor's licence; and "licensed dealer" means a person to whom a dealer's licence has been granted;"

(*b*) by inserting in regulation 2(1) thereof after the definitions of "dealer's licence" and "licensed dealer" the following definition:—

" 'farm bottled milk' means milk which has been produced from a herd owned or controlled by a licensed producer and bottled, or placed in cartons, at the place of production;"

(**a**) 1955 c. 16 (4 & 5 Eliz. 2); sections 35, 87 and 123 are to be read with the Secretary of State for Social Services Order 1968 (S.I. 1968/1699) and the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272).

(**b**) S.I. 1977/1033, as amended by the Milk (Special Designation) (Amendment) Regulations 1980 (S.I. 1980/488).

(*c*) by substituting in regulation 2(1) thereof for the definition of "the Minister" the following definition:—

" 'the Minister' means the Minister of Agriculture, Fisheries and Food and the Secretary of State acting jointly;"

(*d*) by substituting in regulation 2(1) thereof for the definition of "selling milk by retail" the following definition:—

" 'selling milk by retail' means selling it—

(*a*) to any person other than a milk dealer (that is to say, a person who carries on a business which consists in or comprises the selling of milk that has been pasteurised, sterilised or ultra heat treated), an untreated milk distributor (that is to say, a person who carries on a business which consists in or comprises the selling of untreated milk) or a manufacturer of milk products (that is to say, a person who carries on a business which consists in or comprises the making of things made from milk or of which milk is an ingredient), or

(*b*) to such a dealer, untreated milk distributor, or manufacturer otherwise than for the purpose of his business as such;"

(*e*) by inserting in regulation 2(1) thereof after the definition of "specified area" the following definitions:—

" 'untreated milk distributor's licence' means a licence granted to any person to use the special designation "Untreated" in relation to farm bottled milk sold by him, not being milk sold, or appropriate to be sold, by him in accordance with the terms of a dealer's licence or of a producer's licence; and "licensed untreated milk distributor" means a person to whom an untreated milk distributor's licence has been granted.";

(*f*) by substituting for regulation 8 thereof the following regulation:—

"8.—(1) Subject to the provisions of these regulations:—

(*a*) every producer's licence granted under these regulations shall be granted by the Minister;

(*b*) every producer's licence granted on or before 30th April 1985 shall continue in force only until the end of that day;

(*c*) every producer's licence granted after 30th April 1985 but on or before 31st December 1990 shall continue in force only until the end of 31st December 1990;

(*d*) every producer's licence granted after 31st December 1990 shall continue in force until the expiration of the period of five years in which it comes into force, being one of the periods of five calendar years ending with 31st December in the year 1995, and in any fifth succeeding year;

Provided that for a temporary purpose a producer's licence may be granted by the Minister for a period not exceeding one month.

(2) Unless previously revoked any producer's licence, other than a licence granted for a temporary purpose, may, on application by the licensed producer, be renewed from time to time by the Minister for a period calculated in the manner set out in this regulation."

(*g*) by substituting for sub-paragraph (*b*) of paragraph (1) of regulation 13 thereof:—

"(*b*) every dealer's licence granted under these regulations shall be subject to the following conditions:—

(i) a condition that every licensed dealer who receives untreated milk from a producer shall forthwith submit it to heat treatment in accordance with these regulations or despatch it in milk tankers or other suitable containers, whether by way of sale of otherwise, to an establishment for heat treatment;

(ii) a condition that when milk is transferred from one container to another prior to heat treatment it shall be so treated as soon as practicable after the first container has been opened;"

(*h*) by deleting the word ' "Untreated" ' from sub-paragraph (*d*) of paragraph (1) of regulation 13 thereof;

(*i*) by inserting after regulation 14 thereof:—

"

PART V A

Provisions Relating to the Granting of Untreated Milk Distributors' Licences

14A.—(1) Subject to the provisions of these regulations:—

(*a*) every untreated milk distributor's licence under these regulations shall be granted by the local authority for the area within which are situated the premises at or from which the milk is to be sold:

Provided that any such licence granted—

(i) to the Milk Marketing Board in relation to milk sold by the Board otherwise than at or from any of the Board's premises where milk intended for sale or sold is handled by them;

(ii) to a county council; or

(iii) to a local authority;

shall be granted by the Minister;

(*b*) application may be made for an untreated milk distributor's licence in relation to farm bottled milk obtained by the applicant prepacked from a licensed producer to use the special designation "Untreated" for the purpose of re-selling such milk by retail only.

(2) In an application for an untreated milk distributor's licence the applicant shall state the name and address of each licensed producer from whom he proposes to obtain the milk.

(3) In this regulation the expression "local authority" has the meaning assigned to it by section 85 of the Food and Drugs Act 1955.

14B.—(1) Every untreated milk distributor's licence granted on or before 30th April 1985 shall, subject to the provisions of these regulations, continue in force only until the end of that day.

(2) Every untreated milk distributor's licence granted after 30th April 1985 but on or before 31st December 1990 shall, subject to the provisions of these regulations, continue in force only until the end of 31st December 1990.

(3) Every untreated milk distributor's licence granted after 31st December 1990 shall, subject to the provisions of these regulations, continue in force until the expiration of the period of five years in which it comes into force, being one of the periods of five calendar years ending with 31st December 1995, and in any fifth succeeding year.

(4) Any untreated milk distributor's licence, unless previously revoked, may, on application by the licensed untreated milk distributor, be renewed from time to time by the licensing authority for a period calculated in the manner set out in this regulation."

(*j*) by inserting in the heading to PART VI thereof after the words "DEALERS' LICENCES" the words "AND UNTREATED MILK DISTRIBUTORS' LICENCES";

(*k*) by deleting in paragraphs (1) and (2) of regulation 15 thereof and in paragraphs (1), (2), (3) and (5) of regulation 16 thereof the words "dealer's" wherever that word appears;

(*l*) by inserting after regulation 17 thereof:—

"17A. In this Part of these Regulations the word "licence" means a dealer's licence or an untreated milk distributor's licence."

(*m*) by inserting in Condition 3 of Part 1 A of Schedule 2 thereof after the words "licensed producer" the words "at the place of production".

(*n*) by substituting for Part B of Part I of Schedule 2 thereof:—

"B. Conditions applicable to untreated milk distributors' licences only

1. Every licensed untreated milk distributor shall sell milk received only from any licensed producer named in the untreated milk distributor's licence and pre-packed by the producer in bottles.

2. Every licensed untreated milk distributor shall sell the milk in the bottles in which he receives it with the bottle caps or other fastenings unbroken."

(*o*) by substituting for the heading to Part 1 C of Schedule 2 thereof the following:—

"C. Conditions applicable to producers' licences and untreated milk distributors' licences"

(*p*) by inserting after Condition 2 of Part 1 C of Schedule 2 thereof the following condition:—

"2A. Every retail container containing milk sold by retail on or after 1st January 1982, and in relation to which the special designation is used, shall also be conspicuously and legibly labelled or marked in coloured lettering, other than on the cap where the retail container is a bottle, with the words "Raw Unpasteurised Milk", and may be so labelled or marked where sold by retail before 1st January 1982."

(*q*) by inserting at the end of sub-paragraph (3) of Condition 6 of Part II of Schedule 2 thereof the following:—

"Where the container is a bottle the said wording may appear in conspicuous and legible form on the cap."

(*r*) by inserting at the end of Condition 5 of Part III of Schedule 2 thereof the following:—

"Where the bottle has a cap the said wording may appear in conspicuous and legible form on the cap".

(*s*) by substituting for sub-paragraph (3) of Condition 5 of Part IV A of Schedule 2 thereof:—

"(3) (*a*) Every container of milk treated by the ultra high temperature method shall be conspicuously and legibly labelled or marked with the words "Ultra Heat Treated Milk" or "U.H.T. Milk" and shall bear the address of the premises at which the milk was put into the container and may be conspicuously and legibly labelled or marked with the name of the licence holder who has treated the milk;

(*b*) where the container is a bottle the provisions of sub-paragraph (*a*) above may be satisfied by the inclusion of the wording in conspicuous and legible form on the cap";

(*t*) by substituting for Form B in Schedule 4 thereof the following Form:—

"

FORM B

MILK (SPECIAL DESIGNATION) REGULATIONS 1977

UNTREATED MILK DISTRIBUTOR'S LICENCE AUTHORISING THE USE OF THE SPECIAL DESIGNATION "UNTREATED" FOR UNTREATED FARM BOTTLED MILK.

The .....

hereby authorise.....of .....

.....(referred to herein as "the untreated milk distributor") to use the special designation "Untreated" in relation to milk which is obtained by the untreated milk distributor pre-packed from .....

.....

.....

in respect of which premises a licence authorising the use of the appropriate designation in relation to the milk is in force and is sold or intended for sale at or from .....

.....

.....

This licence is not transferable and is subject to the conditions prescribed in the Milk (Special Designation) Regulations 1977 and, unless suspended or revoked, will operate until .....

Dated this .....day of.....19.....

Proper Officer of the .....Council"

(*u*) by deleting from Form F in Schedule 4 thereof the word "Untreated" wherever that word appears;

(*v*) by inserting in sub-paragraphs (2) and (3) of paragraph 2 of Part 1 of Schedule 5 thereof after the words "dealer's licence," wherever those words appear, the words "or an untreated milk distributor's licence".

Revocation

3. The Milk (Special Designation) (Amendment) Regulations 1980(**a**) are hereby revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 1st December 1980.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

2nd December 1980.

Patrick Jenkin,
Secretary of State for Social Services.

3rd December 1980.

Nicholas Edwards,
Secretary of State for Wales.

(**a**) S.I. 1980/488.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations, which apply to England and Wales only, come into operation on 1 January 1981. They further amend the Milk (Special Designation) Regulations 1977 by providing that a dealer's licence may no longer be granted to use the special designation "Untreated". A new licence, called an untreated milk distributor's licence, is introduced to use the special designation "Untreated", and may be granted to persons who obtain farm bottled milk pre-packed from a licensed producer and who re-sell such milk by retail.

2. These Regulations also provide for the labelling or marking, on or after 1st January 1982, of the words "Raw Unpasteurised Milk", on retail containers of milk in relation to which the special designation "Untreated" is used. They also make changes to the conditions relating to the use of the special designations "Pasteurised", "Sterilised" and "Ultra Heat Treated".

3. The Regulations further provide that every producer's licence and untreated milk distributor's licence granted on or before 30th April 1985 shall expire on that date and that every such licence granted after that date but on or before 31st December 1990 shall expire on 31st December 1990. Every producer's licence and untreated milk distributor's licence granted after 31st December 1990 is to expire at the end of the five year period in which it is granted.

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