1977 No. 1033

FOOD AND DRUGS

MILK AND DAIRIES

The Milk (Special Designation) Regulations 1977

Made - - - -	16*th June* 1977
Laid before Parliament	1*st July* 1977
Coming into Operation	1*st August* 1977

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The Minister of Agriculture, Fisheries and Food and the Secretary of State for Social Services, acting jointly, in exercise of the powers conferred on them by sections 35, 43(3), 87 and 123 of the Food and Drugs Act 1955(**a**), as read with the Secretary of State for Social Services Order 1968(**b**), and of all other powers enabling them in that behalf, hereby make the following regulations after consultation with such organisations as appear to them to be representative of interests substantially affected by the regulations and with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(**c**):—

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

1. These regulations may be cited as the Milk (Special Designation) Regulations 1977, and shall come into operation on 1st August 1977.

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

"accredited herd" means a herd which to the satisfaction of the Minister either—

(*a*) has been found to be free from brucellosis by means of a series of diagnostic tests carried out by him or on his behalf and has been, since the date of commencement of such tests, the subject of adequate precautions against the introduction or re-introduction and consequent spreading of brucellosis; or

(*b*) has been wholly constituted by the transfer of animals from other accredited herds in Great Britain or from such similar herds outside Great Britain as the Minister may either generally or in any special case allow, and has been, since being so constituted, the subject of such precautions as aforesaid;

"atmospheric shade box" means a well ventilated box or cupboard so situated on the outside of a wall on the north side of a building or in a comparable position that it is at all times in the shade, such box or cupboard being not less than 90 cm above the ground at its lowest point and having inside it a maximum thermometer and a minimum thermometer of the meteorological type, accurate to within 0.5°C;

"atmospheric shade temperature" means the temperature inside an atmospheric shade box;

"brucellosis" means the disease caused by *brucella abortus;*

(**a**) 4 & 5 Eliz. 2. c. 16. (**b**) S.I. 1968/1699 (1968 III, p. 4585). (**c**) 1971 c. 62.

"business" includes the business of a hospital, school or other institution whose selling of milk is incidental only to the rendering of the health, education or other services rendered by the institution;

"consumer" means any person to whom milk is supplied and who neither sells it nor uses it in the manufacture of milk products for sale;

"dealer's licence" means a licence granted to any person to use a special designation 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; and "licensed dealer" means a person to whom a dealer's licence has been granted;

"herd" means the milch cows in respect of whose milk any licence is applied for or granted, as the case may be, and includes any other bovine animal for the time being kept in contact with such cows;

"licence" means a licence granted by or under these regulations;

"licence held by a retailer for a specified area" means a licence authorising the use of a special designation held by a person carrying on a business which includes any sales which are sales for the purpose of which the use of a special designation is obligatory by virtue of Part II of the Food and Drugs Act 1955 and are of milk in relation to which that licence authorises the use of a special designation;

"licensing authority" means, in relation to a grant of a licence, the authority having power to grant the licence by virtue of these regulations, and, in relation to a licence which has been granted, the authority who would for the time being have power by virtue of these regulations to grant a licence by way of renewal thereof if it had expired; and "licensing area" means the area of such licensing authority;

"milch cow" means a cow kept for milking purposes;

"milk" means cows' milk, but does not include cream, or separated, skimmed, dried, condensed or evaporated milk, or butter milk;

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

"pre-packed" means packed or made up in advance in the bottle or other container in which it is to be supplied to the consumer;

"producer's licence" means a licence granted to any person owning or having control of a herd to use the special designation "Untreated" in relation to milk produced from that herd and sold by him at or from the premises where the herd is maintained; and "licensed producer" means any person to whom such a licence has been granted;

"raw milk" means milk which has not been treated by heat;

"sample" means a sample taken by a person duly authorised in that behalf by the licensing authority or the Minister;

"sell" includes offer or agree to sell or expose for sale; and "sale" shall be construed accordingly;

"selling" means selling in the course of a business, and includes, in relation to milk, supplying it under arrangements for free supply or in the course of any business otherwise than under such arrangements; and references to sales and contracts of sale shall be construed accordingly;

"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) 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 or manufacturer otherwise than for the purposes of his business as such;

"selling milk by wholesale" means selling milk otherwise than by retail;

"specified area" means an area in which section 37(1) of the Food and Drugs Act 1955 is in operation.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament and as if these regulations and the regulations hereby revoked were Acts of Parliament.

(3) Nothing in regulation 22(1), or in the provisions applied in accordance with regulation 22(2), of these regulations shall be taken as affecting the general application of section 38 of the Interpretation Act 1889.

PART II

General Provisions as to Licences

3. The special designations which may be used in accordance with these regulations in relation to milk are "Untreated", "Pasteurised", "Sterilised", and "Ultra Heat Treated".

4. Subject to the provisions of these regulations, any person who intends to use in relation to milk a special designation authorised by these regulations shall, unless he already holds an appropriate licence currently in force, apply in writing in accordance with the provisions of these regulations to the licensing authority for a licence to use such special designation.

5. Subject to the provisions of these regulations, the licensing authority may refuse to grant a licence (whether in renewal of an existing licence or not) if they are not satisfied that the applicant's arrangements and processes for the production, handling, treatment, storage and distribution of milk, as the case may be, are such as to comply with all relevant provisions contained in any Milk and Dairies Regulations and Milk (Special Designation) Regulations, including these regulations.

6.—(1) Every licence shall be subject to the general conditions set out in Schedule 1 to these regulations and to such of the special conditions set out in Parts I, II, III and IV of Schedule 2 to these regulations as are applicable thereto:

Provided that this paragraph shall not apply in relation to the licence granted by regulation 9 hereof.

(a) 1889 c. 63.

(2) The provisions as to sampling set out in Part I of Schedule 3 to these regulations and the tests prescribed in Parts II, III, IV and V of that Schedule shall apply for the purposes of Schedule 2 to these regulations.

7.—(1) Every licence granted under these regulations shall be in the appropriate form contained in Schedule 4 to these regulations with such modifications, if any, as the circumstances may require.

(2) A licence other than a dealer's licence granted by the Minister to the Milk Marketing Board shall authorise the use of a special designation only in relation to milk sold at or from the premises mentioned in the licence.

PART III

PROVISIONS RELATING TO THE GRANTING OF PRODUCERS' LICENCES

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 under these regulations or having effect as if so granted shall continue in force for a period of five years from the date on which it was granted:

Provided that for a temporary purpose a producer's licence may be granted by the Minister for a period of one month.

(2) Unless previously revoked, any licence specified in the preceding paragraph, 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 of five years from the date on which it was renewed.

9.—(1) Subject to the provisions of this regulation, any person who sells milk produced from a herd in his ownership or control in the course of catering sales at or from the premises where the herd is maintained is hereby granted a licence, subject to the conditions set out in the next following paragraph, authorising the use of the special designation "Untreated" in connection with such milk sold as aforesaid:

Provided that—

(*a*) if at any time the person concerned is the holder of a producer's licence (granted otherwise than by this regulation) in respect of the milk produced as aforesaid, any licence granted by this regulation, having become a surplusage, shall lapse and be superseded by the producer's licence while that licence is in force or under suspension;

(*b*) this regulation shall not, except with the Minister's consent, operate to grant a licence to any person whose producer's licence (granted otherwise than by this regulation) last held by him in respect of milk produced as aforesaid has been revoked.

(2) The licence granted by this regulation shall be subject to the following conditions:—

(*a*) A condition that not more than fifty gallons of milk to which this licence applies shall be sold in any one year.

(*b*) The conditions set out in Schedule 1 and paragraphs A.1, A.2, C.3, C.4 and C.5 of Part I of Schedule 2 to these regulations, so however that for the purposes of this regulation the said paragraphs C.3, C.4 and C.5 shall apply as if there were substituted for the references therein to milk in relation to which the special designation is used references to milk to which the licence granted by this regulation applies.

(3) The licence granted by this regulation may, as regards any producer, be suspended or revoked by the Minister in accordance with the provisions of Part IV of these regulations and paragraph (1) of this regulation shall not apply in relation to any producer for the time being affected by any such suspension or revocation.

(4) The provisions of regulation 11 hereof shall apply in relation to any refusal of consent under proviso (*b*) to paragraph (1) of this regulation as they apply in relation to any refusal to grant a producer's licence.

PART IV

Refusal, Suspension and Revocation of Producers' Licences and Appeals arising therefrom

10.—(1) The Minister shall not revoke a producer's licence being a licence to which section 43 of the Food and Drugs Act 1955 applies (that is to say, a licence held by a retailer for a specified area) or refuse a grant of a licence by way of renewal of any such licence on the ground of breach of a condition thereof, unless—

(*a*) the breach in question is of a condition to which section 43 as aforesaid applies,

(*b*) the holder of the licence has been convicted of an offence under that section by virtue of the breach in question, or has been convicted, within twelve months before the time of the breach in question or after the time of it, of an offence under section 36, 37 or 38 of the aforesaid Act, or of an offence under Milk and Dairies Regulations for which a penalty is thereby imposed, and

(*c*) the decision of the licensing authority to revoke, or to refuse renewal, as the case may be, is made within twelve months from the date of the breach in question.

(2) The Minister shall not suspend a producer's licence, being a licence held by a retailer for a specified area, on the ground of breach of a condition thereof, by virtue of any one decision by him, for a period of more than 3 months, but the period of suspension awarded by any such decision may be extended by a subsequent such decision made in accordance with the provisions of the next succeeding regulation.

11.—(1) Subject, as respects the suspension or revocation of a producer's licence which is a licence held by a retailer for a specified area, to the provisions of the preceding regulation, the Minister may suspend or revoke a producer's licence on the ground of any breach of condition thereof, being a breach by virtue of which the producer has been convicted of an offence under section 43 of the Food and Drugs Act 1955, or which, not being such a breach

as aforesaid, is proved (in a case referred to a tribunal by virtue of the subsequent provisions of these regulations) by the finding of the tribunal, or (in any other case) to the satisfaction of the Minister:

Provided that a licence shall not be suspended or revoked by reason only of the producer's milk being found not to comply with the conditions of the licence after it has left his custody and control, if he shows to the satisfaction of the Minister that such non-compliance was not due to any act or default of himself or of his servants or agents.

(2) Where the Minister proposes to refuse to grant a producer's licence, or proposes to suspend or revoke such a licence, he shall serve on the person affected a notice informing him of the proposal and the reasons therefor, and of his right under the next succeeding paragraph.

(3) The person affected may within 14 days after the receipt of such notice make representations in writing to the Minister in respect of all or any of the reasons stated therein, and where the issue is as to revocation or suspension or a producer's licence, being a licence held by a retailer for a specified area, or refusal of a grant of a licence by way of renewal of such a licence, he may within the same period request the Minister to refer the matter to a tribunal constituted in accordance with these regulations. If such request is made to the Minister as aforesaid, he shall forthwith refer the matter to a tribunal in accordance with the provisions of Schedule 5 to these regulations and on receipt of the tribunal's report the Minister shall send a copy thereof to the person affected.

(4) The decision ofthe Minister to refuse to grant, or to suspend, or to revoke, a producer's licence shall be final, but before making his decision he shall consider any representations made under the preceding paragraph and, where the matter has been referred to a tribunal, the report of the tribunal.

(5) Where before the end of the period for which a producer's licence was granted, the holder of that licence applies for a licence in renewal thereof and his application is not finally determined before the end of the said period, the existing licence shall, subject to any suspension under these regulations, remain in force until his application is so determined, and where notice of a proposal to refuse to grant such a licence is given by the Minister during the currency of a period when representations may be made against his proposed decision to suspend or revoke the existing licence, or in the case of a retailer for a specified area reference to a tribunal in respect of the matter may be requested, such representations or reference shall be deemed to include representations or reference in respect of such refusal.

12. Where under this Part of these regulations any issue is referred to a tribunal the constitution and procedure of the tribunal shall conform with the provisions of Schedule 5 to these regulations.

PART V

Provisions Relating to the Granting of Dealers' Licences

13.—(1) Subject to the provisions of these regulations,—

(*a*) every dealer's licence granted 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 pasteurised, sterilised, treated by the ultra high temperature method or sold, as the case may be:

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 in relation to milk obtained by the applicant otherwise than pre-packed for a dealer's licence to use the special designation "Untreated" for the purpose of re-selling such milk by wholesale or by retail;

(*c*) application may be made for a dealer's licence to use the special designation "Pasteurised", "Sterilised" or "Ultra Heat Treated", as the case may be, in relation to milk pasteurised by the applicant in accordance with the provisions of Part II of Schedule 2 to these regulations, sterilised by him in accordance with the provisions of Part III of that Schedule or treated by him by the ultra high temperature method in accordance with the provisions of Part IV of that Schedule;

(*d*) application may be made in relation to milk—

(i) obtained by the applicant pre-packed in respect of which any of the special designations "Untreated", "Pasteurised", "Sterilised" or "Ultra Heat Treated" may be used by virtue of these regulations;

(ii) pasteurised, sterilised or treated by the ultra high temperature method by the applicant in accordance with the provisions of a licence granted under sub-paragraph (*c*) hereof;

for a dealer's licence to use a special designation for the purpose of selling such milk by wholesale or by retail and such a licence may authorise the use of one or more special designations.

(2) In an application for a dealer's licence, other than an application made in accordance with paragraph (1)(*c*) of this regulation, the applicant shall state the name and address of each person 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(**a**).

14.—(1) Every dealer's licence granted on or before 31st December 1980 shall, subject to the provisions of these regulations, continue in force only until the end of that day.

(2) Every dealer's licence granted after 31st December 1980 shall, subject to the provisions of these regulations, continue in force until the expiration

(**a**) 4 & 5 Eliz. 2. c. 16.

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 1985 and in any fifth succeeding year.

(3) Any dealer's licence, unless previously revoked, may on application by the licensed dealer be renewed from time to time by the licensing authority for a period calculated in the manner set out in the last preceding paragraph.

PART VI

Refusal, Suspension and Revocation of Dealers' Licences and Appeals Arising Therefrom

15.—(1) The licensing authority shall not revoke a dealer's licence being a licence to which section 43 of the Food and Drugs Act 1955 applies (that is to say, a licence held by a retailer for a specified area) or refuse a grant of a dealer's licence by way of renewal of any such licence on the ground of breach of a condition thereof unless—

(*a*) the breach in question is of a condition to which section 43 as aforesaid applies,

(*b*) the holder of the licence has been convicted of an offence under that section by virtue of the breach in question, or has been convicted within twelve months before the time of the breach in question or after the time of it, of an offence under section 36, 37 or 38 of the aforesaid Act, or of an offence under Milk and Dairies Regulations for which a penalty is thereby imposed, and

(*c*) the decision of the licensing authority to revoke, or to refuse renewal, as the case may be, is made within twelve months from the date of the breach in question.

(2) The licensing authority shall not suspend a dealer's licence, being a licence held by a retailer for a specified area, on the ground of breach of a condition thereof, by virtue of any one decision by the licensing authority, for a period of more than 3 months, but the period of suspension awarded by any such decision may be extended by a subsequent such decision made in accordance with the provisions of the next succeeding regulation.

16.—(1) Subject, as respects suspension or revocation of a dealer's licence which is a licence held by a retailer for a specified area, to the provisions of the preceding regulation, the licensing authority may suspend or revoke a dealer's licence on the ground of any breach of condition thereof being a breach by virtue of which the holder has been convicted of an offence under section 43 of the Food and Drugs Act 1955, or which, not being such a breach as aforesaid, is proved (in a case referred to a tribunal by virtue of the subsequent provisions of these regulations) by the finding of the tribunal, or (in any other case) to the satisfaction of the licensing authority.

(2) The following provisions shall apply where a licensing authority, other than the Minister, propose to suspend or revoke a dealer's licence or to refuse to grant such a licence:—

(*a*) The authority shall serve on the person affected a notice informing him of the proposal and the reasons therefor, and of his right under the next succeeding sub-paragraph.

(*b*) The person affected may within 14 days after the receipt of such a notice require the authority to afford him an opportunity of being heard by the appropriate committee of the authority and the authority shall comply with any such requirement before making their decision.

(*c*) Any such hearing by a committee shall be in public and the person affected shall be entitled to be heard by himself or by counsel or a solicitor or other representative as he may elect, and he or his representative shall be entitled to call witnesses and to cross-examine witnesses called by another.

(*d*) Where the decision of the authority is adverse to the person affected, that person may within 14 days after being notified of that decision appeal to the Minister and the authority shall give notice of such right together with notice of their decision.

(*e*) A decision of the licensing authority to suspend or revoke a dealer's licence shall not have effect until 14 days after the receipt by the person affected of notice thereof and, in the event of an appeal against the decision, until the end of the period in respect of which the licence was granted or until the determination of the appeal, whichever is the earlier.

(*f*) The Minister on any such appeal, before making his decision, shall, by notice, afford to the person affected an opportunity of making representations within a period of 14 days, and where the issue is as to revocation or suspension of a dealer's licence held by a retailer for a specified area or refusal of a grant of a licence by way of renewal of such a licence and the person affected so requests, the Minister shall refer the matter to a tribunal in accordance with the provisions of Schedule 5 to these regulations.

(*g*) On receipt of the tribunal's report the Minister shall send a copy thereof to the person affected and before making his decision the Minister shall consider the report.

(*h*) In any such appeal any reference in these regulations to anything being done to the satisfaction of the licensing authority shall be treated as if the reference were to the satisfaction of the Minister who in determining any such appeal may, if he thinks fit, take into consideration any change of circumstances brought about since the date of the licensing authority's decision.

(*i*) The decision of the Minister on any such appeal shall be final and the licensing authority shall comply therewith.

(3) Where the Minister acting as a licensing authority proposes to revoke or suspend a dealer's licence or to refuse to grant such a licence he shall serve on the council or board affected a notice informing them of the proposal and the reasons therefor and shall by notice afford such council or board an opportunity of making representations within a period of 14 days, and where the issue is as to revocation or suspension of a dealer's licence held by a retailer for a specified area or refusal of a grant of a licence by way of renewal of such a licence and the council or board affected so requests, the Minister shall refer the matter to a tribunal in accordance with the provisions of Schedule 5 to these regulations.

(4) On receipt of the tribunal's report the Minister shall send a copy thereof to the council or board affected and before making his decision the Minister shall consider the report.

(5) Where before the end of the period for which a dealer's licence was granted the holder of the dealer's licence applies for a grant of a licence in renewal thereof and his application is not finally determined before the end of the said period, the existing dealer's licence shall, subject to any suspension under these regulations, remain in force until his application is so determined, and where notice of a proposal to refuse to grant the licence is given by the licensing authority—

(*a*) during the currency of a period when representations may be made against the licensing authority's proposed decision to suspend or revoke the existing dealer's licence;

(*b*) during the currency of an appeal to the Minister against a decision by a licensing authority, other than the Minister, to suspend or revoke the existing licence; or

(*c*) in the case of a retailer for a specified area, after he has requested a reference to a tribunal and before the consideration of that reference by the tribunal;

such representations, appeal or reference, as the case may be, shall be deemed to include representations, an appeal or reference in respect of such refusal.

17. Where under this Part of these regulations any issue is referred to a tribunal the constitution and procedure of the tribunal shall conform with the provisions of Schedule 5 to these regulations.

PART VII

Miscellaneous Provisions Including Revocations

18. Where milk is brought from Scotland into England or Wales, a licence granted in pursuance of an order made by the Secretary of State and authorising the use of a special designation corresponding to a special designation prescribed by these regulations in relation to that milk shall have effect as if it had been granted under these regulations, and so far as any conditions prescribed in these regulations for a licence authorising the use of that designation would relate to anything to be done before the milk enters England or Wales, they shall be deemed to be satisfied if the corresponding conditions of the Scottish order are complied with.

19.—(1) The provisions of section 43 of the Food and Drugs Act 1955 (which relate to breaches of certain conditions of licences held by retailers for specified areas) shall, so far as they relate to licences under these regulations, other than licences authorising the use of a special designation in relation to raw milk by the producer thereof, or authorising the use of a special designation by a local authority, be enforced by the licensing authority.

(2) In this regulation, the expression "local authority" has the meaning assigned to it by section 43(4) of the Food and Drugs Act 1955.

20. Every licensing authority shall give such assistance and information to any other licensing authority as that other licensing authority may reasonably require for the purpose of carrying out their duties under these regulations.

21. The regulations specified in Schedule 6 to these regulations are hereby revoked.

22.—(1) Any licence to use a special designation granted under the Milk (Special Designation) Regulations 1963(**a**), as amended(**b**), and in force immediately before the commencement of these regulations shall continue in force and have effect as if it had been granted under and subject to the provisions of these regulations:

Provided that a producer's licence shall continue in force and have such effect only if, at that time, the herd from which the milk was produced was an accredited herd.

(2) Without prejudice to the provisions of paragraph (1) of this regulation, paragraph 3 and paragraph 4 (except the proviso thereto) of Schedule 12 to the Food and Drugs Act 1955 (which contain transitional provisions) shall apply for the purposes of these regulations as if there were substituted for the references therein to that Act, to any corresponding enactment in that Act and to any enactment repealed by that Act respectively references to these regulations, to any corresponding regulation in these regulations and to any regulation revoked by these regulations.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 13th June 1977.

(L.S.)

John Silkin,
Minister of Agricuture, Fisheries and Food.

16th June 1977.

David Ennals,
Secretary of State for Social Services.

(**a**) S.I. 1963/1571 (1963 III, p. 2937).
(**b**) S.I. 1965/1555; 1972/1117; 1974/62 (1965 II, p. 4543; 1972 II, p. 3322; 1974 I, p. 202).

Regulations 6(1), 9(2) SCHEDULE 1

General conditions subject to which licences are granted

1. The holder of the licence shall so maintain and operate his arrangements and processes for the production, handling, treatment, storage and distribution of milk as to comply with all relevant provisions contained in any Milk and Dairies Regulations and Milk (Special Designation) Regulations, including these regulations.

2. The holder of the licence shall take such measures as are adequate to ensure that the milk to which the licence applies is kept apart from all other milk at all times except when it is in separate sealed containers. In particular, he shall ensure that any vessel or apparatus which has been used for any other milk, whether raw milk or not, shall be cleansed in accordance with the provisions of the Milk and Dairies (General) Regulations 1959(**a**), as amended(**b**), on each occasion before it is used for the milk to which the licence applies:

Provided that such cleansing may be dispensed with in any case where, having regard to the special designation next to be used, the licensing authority so permits.

3. Subject to the provisions of these regulations, the holder of the licence shall not for the purpose of the sale or advertisement of the milk to which the licence applies refer to it by any such description (other than the special designation authorised by the licence) as is likely to suggest that it is tested, approved or graded by any competent person.

4. The holder of the licence shall—

(*a*) keep accurate records of the quantities of the milk produced, purchased and sold, as the case may be, and of the names and addresses of the persons from whom the milk was purchased and to whom it was sold otherwise than by retail;

(*b*) retain such records for a period of twelve months from the date of production or the date of the transaction to which the record relates, as the case may be;

(*c*) permit any person duly authorised by the licensing authority—

(i) to inspect the arrangements and processes for the production, handling, treatment, storage and distribution of the milk at any place at which the milk is under the control of the holder of the licence;

(ii) to take samples of the milk at any such place; and

(iii) to inspect any records which the holder is required to keep by the conditions subject to which the licence was granted.

For the purposes of this sub-paragraph the expression "licensing authority" means the licensing authority for the licensing area in which the said arrangements or processes are maintained or operated or in which the said records are kept, and, for the purpose of taking samples of any milk which is received from a licensed producer at any premises to which a dealer's licence relates, includes the Minister.

(**a**) S.I. 1959/277 (1959 I, p. 1351).
(**b**) S.I. 1962/1288; 1973/1064; 1977/171 (1962 II, p. 1381; 1973 II, p. 3188; 1977 I, p. 521).

Regulations 6(1), 9(2) SCHEDULE 2

PART I.—UNTREATED

Special conditions subject to which licences to use the special designation "Untreated" are granted

In this Part of this Schedule—

"bottle" means any container which has a capacity of not more than one quart and is of a type approved by the licensing authority and is closed and fastened in a manner satisfactory to that authority; and "bottled" shall be construed accordingly;

"retail container" means a bottle (as defined above), or other suitable container which has a capacity of not less than two gallons, in which milk is to be supplied to a consumer.

A. *Conditions applicable to producers' licences only*

1. Where an animal shows evidence of any disease which is likely to affect the milk injuriously, it shall be segregated from the rest of the herd or removed from the herd, as the case may require, and while segregated or after removal the special designation shall not be used in relation to its milk.

2. A record shall be kept of all animals segregated from the rest of the herd or removed from the herd in pursuance of the foregoing condition showing the reason for the segregation or removal, and in the case of removal, the manner in which the animal has been disposed of.

3. The milk in relation to which the special designation is used shall be placed by the licensed producer—

(*a*) in retail containers; or

(*b*) in unventilated containers which shall be conspicuously and legibly labelled or marked with the words "Untreated Milk" and the address of the licence holder by whom the milk was put into the container;

and shall be sold in such containers.

B. *Conditions applicable to dealers' licences only*

1. Every licensed dealer who receives the milk in retail containers shall sell it in those containers with the seals or other fastenings unbroken.

2. Every licensed dealer who receives milk in containers other than retail containers and opens them shall—

(*a*) transfer it to retail containers for sale therein; or

(*b*) submit it forthwith to heat treatment in accordance with these regulations or despatch it in milk tankers or other suitable containers, whether by way of sale or otherwise, to an establishment for heat treatment in the manner aforesaid:

Provided that, in the case of milk collected in a milk tanker from the dairy farm and received by him, every licensed dealer shall, before selling any such milk under a special designation, submit it to heat treatment in accordance with these regulations.

3. When in accordance with the last preceding condition milk is transferred from one container to another, it shall be so transferred as soon as practicable after the first container has been opened.

C. *Conditions applicable to producers' licences and dealers' licences*

1. Every bottle containing the milk in relation to which the special designation is used shall be tightly closed and shall be securely fastened either with a cap overlapping the lip of the bottle or in some other suitable manner approved by the licensing authority. The cap shall bear the address of the premises at which the milk is bottled and shall be conspicuously and legibly labelled or marked with the words "Untreated Milk" and it may also bear—

(*a*) the day of production, with or without the word "morning" or "evening" according to the time of production;

(*b*) the name of the licence holder by whom the milk was bottled; and

(*c*) subject to the approval of the licensing authority, the words "Farm Bottled" or "Farm Cartoned", as appropriate, if the milk has been bottled by the producer at the place of production.

Except with the consent of the licensing authority, the cap shall bear no other words.

If there is no cap on which the wording can suitably be placed, it shall be placed within a surrounding line in a prominent position elsewhere upon the bottle, and the foregoing provisions shall apply to the words within the surrounding line in the same way as they apply to words on the cap.

2. Where a container other than a bottle is used for milk in relation to which the special designation is used, it shall be closed with a tightly fitting cover and shall be conspicuously and legibly labelled or marked with the words "Untreated Milk" and the address of the licence holder by whom the milk was put into the container, and where the container is a retail container (other than a bottle) it shall also be suitably sealed.

3. The milk in relation to which the special designation is used shall come from an accredited herd.

4. The milk in relation to which the special designation is used shall not at any stage have been treated by heat or in any manner likely to affect its nature or qualities.

5. The milk shall be produced, handled, treated, stored and distributed, as the case may be, under such conditions that—

(*a*) any sample of milk in relation to which the special designation is used; and

(*b*) any sample of milk from the herd in respect of which a licence authorising the use of the special designation is in force (whether the designation is used in relation to that milk or not), if the sample is taken before the milk has been placed in bottles or other containers for delivery to the consumer or while it is in the possession of the producer,

shall, if the sample has been taken, transported and kept in accordance with Part I of Schedule 3 to these regulations, satisfy the test prescribed in Part II of that Schedule.

PART II.—PASTEURISED

Special conditions subject to which licences to use the special designation "Pasteurised" are granted

1. The milk shall be pasteurised, that is to say,—

(*a*) retained at a temperature of not less than 62.8°C and not more than 65.6°C for at least thirty minutes and be immediately cooled to a temperature of not more than 10°C; or

(*b*) retained at a temperature of not less than 71.7°C for at least fifteen seconds and be immediately cooled to a temperature of not more than 10°C; or

(*c*) retained at such temperature for such period as may be specified by the licensing authority with the approval of the Minister.

2. The whole of the apparatus in which the milk is pasteurised, including the cooler, shall be so constructed as to secure the protection of the milk from risk of atmospheric contamination by dust or otherwise.

3. Any apparatus in which the milk is to be heated to and maintained at a temperature of more than 65.6°C shall be provided with a device which shall automatically divert the flow of any milk which is not raised to the authorised temperature:

Provided that this paragraph shall only apply when the milk is heated by a continuous-flow method and is pasteurised in accordance with—

(*a*) the provisions of sub-paragraph (*b*) of paragraph 1 of this Part of this Schedule; or

(*b*) a method approved by the Minister under sub-paragraph (*c*) of paragraph 1 hereof.

4.—(1) Such indicating and recording thermometers as the licensing authority shall reasonably consider necessary shall be installed in suitable places in the apparatus in which the milk is pasteurised so as to indicate the temperatures at which the milk is retained and to which the milk is cooled.

(2) The records of recording thermometers shall be marked with graduations adequately spaced to give clear readings, and they shall be dated and shall be preserved for a period of not less than one month.

5.—(1) A sample of the milk taken in accordance with Part I of Schedule 3 to these regulations after pasteurisation and before delivery to the consumer shall satisfy the phosphatase test prescribed in Part III of that Schedule.

(2) A sample of the milk taken in accordance with Part I of Schedule 3 to these regulations after pasteurisation and on the day of but before delivery to the consumer shall, if it is kept in an insulated container without artificial cooling until it reaches the laboratory, satisfy the methylene blue test prescribed in Part II of that Schedule.

6.—(1) Milk which is pasteurised in bottles shall be supplied to the consumer in those bottles, and milk which is pasteurised in containers other than bottles shall be put into the containers in which it is to be supplied to the consumer at the premises at which it is pasteurised, and as soon as possible after pasteurisation.

(2) Every container in which the milk is transported, exposed or offered for sale shall be tightly closed and securely fastened with a cap or cover overlapping the lip of the container or in some other suitable manner approved by the licensing authority. Where churns are used they shall also be suitably sealed.

(3) Every container in which the milk is transported, exposed or offered for sale shall be conspicuously and legibly labelled or marked with the words "Pasteurised Milk".

PART III.—STERILISED

Special conditions subject to which licences to use the special designation "Sterilised" are granted

A. *Conditions applicable when the milk is heated in bottles or by a continuous-flow method*

1. In this Part of this Schedule, "bottle" means any container which has a capacity of not more than one gallon and is of a type approved by the licensing authority.

2. The milk shall be sterilised, that is to say, filtered or clarified, homogenised and thereafter heated to and maintained at such a temperature, not less than 100°C, for such a period as to ensure that it will comply with the turbidity test prescribed in Part IV of Schedule 3 to these regulations. The milk shall be heated as aforesaid—

(*a*) in bottles and in such a manner that on or before completion of the treatment the bottles shall be sealed with an airtight seal; or

(*b*) by a continuous-flow method.

3. Such thermometers and pressure gauges as the licensing authority shall reasonably consider necessary shall be installed in suitable places in the apparatus so as to indicate the temperature or pressure to which the milk is raised or subjected, as the case may be.

4. A sample of the milk taken in accordance with Part I of Schedule 3 to these regulations after treatment and before delivery to the consumer shall satisfy the turbidity test prescribed in Part IV of that Schedule.

5. Every bottle in which the milk is transported, exposed or offered for sale shall be conspicuously and legibly labelled or marked with the words "Sterilised Milk".

B. *Additional conditions applicable when the milk is heated by a continuous-flow method*

1. Immediately after heating as aforesaid by a continuous-flow method the milk shall be put into the sterile bottles in which it is to be supplied to the consumer. Such bottles shall be filled and sealed at the premises at which the treatment has been carried out with such aseptic precautions as will ensure the protection of the milk from the risk of contamination.

2. The records of such recording thermometers as the licensing authority shall reasonably consider necessary to be installed in suitable places in the apparatus in which the milk is to be heated as aforesaid by a continuous-flow method shall be marked with graduations adequately spaced to give clear readings, and they shall be dated and shall be preserved for a period of not less than three months.

3. Any apparatus in which the milk is to be heated as aforesaid by a continuous-flow method shall be provided with a device which shall automatically divert the flow of any milk which is not raised to the authorised temperature.

4. A sample of the milk heated as aforesaid by a continuous-flow method which is taken in accordance with Part I of Schedule 3 to these regulations after treatment and before delivery to the consumer shall satisfy the colony count test prescribed in Part V of that Schedule.

5. Every bottle in which the milk heated as aforesaid by a continuous-flow method is transported, exposed or offered for sale shall be so closed and securely fastened that it is airtight.

PART IV.—ULTRA HEAT TREATED

Special conditions subject to which licences to use the special designation "Ultra Heat Treated" are granted

A. *Conditions applicable whether or not the treatment of the milk includes the direct application of steam*

1. The milk shall be treated by the ultra high temperature method, that is to say retained at a temperature of not less than 132.2°C for not less than one second.

2. Any apparatus in which the milk is to be heated to and maintained at a temperature of not less than 132.2°C shall be provided with a device which shall automatically divert the flow of any milk which is not raised to the authorised temperature.

3.—(1) Such indicating and recording thermometers as the licensing authority shall reasonably consider necessary shall be installed in suitable places in the apparatus in which the milk is treated by the ultra high temperature method so as to indicate the temperatures to which the milk is heated.

(2) The records of recording thermometers shall be marked with graduations adequately spaced to give clear readings, and they shall be dated and shall be preserved for a period of not less than three months.

4. A sample of the milk taken in accordance with Part I of Schedule 3 to these regulations after treatment by the ultra high temperature method and before delivery to the consumer shall satisfy the colony count test prescribed in Part V of that Schedule.

5.—(1) Milk which is treated by the ultra high temperature method shall immediately after such treatment be put into the sterile containers in which it is to be supplied to the consumer. Such containers shall be filled and sealed at the premises at which the treatment has been carried out with such aseptic precautions as will ensure the protection of the milk from risk of contamination.

(2) Every container in which milk treated by the ultra high temperature method is transported, exposed or offered for sale shall be so closed and securely fastened, either with a cap overlapping the lip of the container or in some other suitable manner approved by the licensing authority, that the container is airtight.

(3)(*a*) Every cap closing a 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 also bear the address of the premises at which the milk was put into the container. Such cap may bear also the name of the licence holder who has treated the milk.

(*b*) Except with the approval of the licensing authority the cap shall bear no other words.

(*c*) If there is no cap on which the wording can suitably be placed, it shall be placed within a surrounding line in a prominent position elsewhere on the container, and the foregoing provisions shall apply to the words within the surrounding line in the same way as they apply to words on the cap.

B. *Additional conditions applicable when the treatment of the milk includes the direct application of steam*

1. In the following paragraphs of this Part of this Schedule—

"input temperature" means the temperature of the milk immediately before the application of the steam;

"operational change" means any change in the site, layout or construction of equipment for treating milk by the ultra high temperature method by the direct application of steam, or any change in the steam supply or in the particular temperature used for treating the milk as aforesaid;

"output temperature" means the temperature of the vapour or of the milk in either case at the point of leaving the evaporative cooling expansion vessel.

2. Any treatment of milk by the ultra high temperature method by the direct application of steam shall be so carried out that both the percentage of the milk consisting of milk fat and the percentage of the milk consisting of milk solids other than milk fat are the same after that treatment as before it.

3.—(1) Any equipment for treating milk as aforesaid shall be provided with control apparatus which, when calibrated as required by sub-paragraph (2) of this paragraph, will ensure compliance with the last preceding paragraph providing no operational change is made or takes place.

(2) Before the equipment is used for treating milk as aforesaid either initially or after any operational change is made or takes place, the control apparatus shall be calibrated in relation to the particular temperature to be used for treating milk as aforesaid so as to determine the control temperatures (being the input temperature, the output temperature and the difference between them which, if respectively maintained, will ensure compliance with the last preceding paragraph providing no operational change is made or takes place).

(3) A note of the control temperatures currently applying and of the particular temperature used for treating milk as aforesaid when those control temperatures were determined shall be kept with such equipment and be available at all reasonable times for inspection by any person duly authorised by the licensing authority.

4. The holder of the licence shall forthwith notify the licensing authority of any operational change which is made or takes place.

5.—(1) For each occasion on which such equipment is in operation—

(*a*) the input temperature and the output temperature shall be indicated by indicating thermometers; and

(*b*) either both of these temperatures or one of them and the difference between them shall be continuously recorded on charts marked with graduations adequately spaced to give clear readings.

(2) The records on such charts shall be dated and shall be preserved for a period of not less than three months.

6. Any treatment of milk as aforesaid or calibration of control apparatus in compliance with paragraph B.3 of this Part of this Schedule shall be carried out only with dry saturated steam.

7. In connection with the treatment of milk as aforesaid, apparatus shall be provided which automatically and continuously ensures that water is separated from the steam and does not enter the milk heating equipment.

8. The equipment for treating the milk shall be so constructed that the steam can be sampled immediately before it is applied to the milk and the holder of the licence shall permit any person duly authorised by the licensing authority so to sample the steam.

9. The treatment shall be so carried out as to secure that no foreign matter other than steam enters the milk and that there is no adulteration of the milk at the commencement or termination of the treatment or at any time when the treatment is interrupted.

10. The water used for generating the steam which is to be applied to the milk shall be wholesome and shall be treated with no water treatment compound except—

(*a*) any such compound necessary to make it wholesome;

(*b*) any of the following boiler feed water treatment compounds:—

Potassium alginate
Sodium alginate
Potassium carbonate
Sodium carbonate
Sodium hydroxide
Monosodium dihydrogen orthophosphate
Disodium monohydrogen orthophosphate
Trisodium orthophosphate
Sodium tripolyphosphate
Sodium hexametaphosphate
Tetrasodium pyrophosphate
Sodium silicate
Sodium metasilicate
Sodium sulphate
Magnesium sulphate
Neutral or alkaline sodium sulphite
Unmodified starch
Sodium aluminate
Polyoxyethylene glycol (minimum molecular weight, 1000).

Regulation 6(2) and Schedule 2

SCHEDULE 3

PART I.—PROVISIONS AS TO SAMPLING

Taking of sample

1. A sample shall be taken at any time—

(*a*) when the milk (whether the special designation is used in relation to that milk or not) is in the possession of the licensed producer or the pasteuriser or the steriliser or the person treating milk by the ultra high temperature method, as the case may be;

(*b*) when the milk is in the possession of the licensed dealer and the special designation is used or to be used in relation to that milk by him.

2. When the milk is in containers not exceeding one quart in capacity, or when milk has been treated by the ultra high temperature method whether or not such milk is in containers exceeding one quart in capacity, the sample shall consist of one such container which shall be delivered intact to the testing laboratory.

3. When the milk (other than milk which has been treated by the ultra high temperature method) is in containers exceeding one quart in capacity, the sample shall consist of not less than 60 ml of the milk. The milk shall be thoroughly stirred before sampling and the sample shall be taken from well below the surface of the milk. The instruments used for stirring and sampling shall be sterile and the sample shall be poured into a sterile bottle which shall thereupon be immediately stoppered. The part of the stopper which may come into contact with the milk shall be sterile. Where the person taking the sample breaks the seal on a container he shall, after taking the sample, re-seal the container and attach to it a label certifying that it has been opened and re-sealed by him.

Identification of sample

4. For the purpose of identification in the testing laboratory, the person taking the sample shall mark the container of the sample with a number or other suitable identification mark at the time of sampling and shall enter in a book or on a paper, which shall accompany the sample, the following particulars:—

(*a*) the identification number or mark;

(*b*) the name and address of the holder of the licence by whom the milk was consigned, or by whom it was being delivered, or on whose premises the sample was taken.

Transport of sample

5. The bottle or container containing any sample of milk shall be transferred forthwith to an insulated container, which shall not be artificially cooled, for transport to the testing laboratory. The sample shall be transported to the testing laboratory with the least possible delay. Any sample which does not arrive at the testing laboratory on the day on which it is taken shall be discarded.

PART II.—THE METHYLENE BLUE TEST FOR UNTREATED MILK AND PASTEURISED MILK

Treatment of sample

1.—(1) On arrival at the testing laboratory the sample of milk shall at once be removed from the insulated container. Thereafter it shall be stored as follows:—

(*a*) a sample taken at any time during the period from 1st May to 31st October, inclusive, in any year shall be kept at atmospheric shade temperature until 9.30 a.m. on the following day;

(*b*) a sample taken at any time during the period from 1st November to 30th April, inclusive, in any year shall be kept in its original container or in a sterile sample bottle of at least 80 ml capacity at atmospheric shade temperature until 5.0 p.m. on the day of sampling and thereafter at a constant temperature of 18.3°C ±1°C until 9.30 a.m. on the following day.

(2) If during the period of storage at atmospheric shade temperature to which a sample is subjected this temperature at any time exceeds 21°C, the test shall not be applied.

(3) The test shall be begun between 9.30 and 10.0 a.m. on the day after the sample is taken.

Reagent—Methylene Blue

2.—(1) Tablets manufactured under arrangements made by the Minister shall be used for the test. A solution shall be prepared aseptically by adding one tablet to 200 ml of cold, sterile, glass-distilled water in a sterile flask, shaking until the tablet is completely dissolved, and making up the solution to 800 ml with cold, sterile, glass-distilled water. The resultant solution shall be stored in a stoppered sterile flask in a cool, dark place, and shall not be used if—

(*a*) it has been exposed to sunlight, or

(*b*) a period of two months has elapsed since the date of preparation.

(2) The amount of methylene blue required for a day's work shall be poured off from the stock bottle into a suitable glass container. The pipette used for transferring the methylene blue solution to the tubes of milk shall not be introduced into the stock bottle.

Apparatus

3.—(1) Test tubes shall conform to British Standard 625:1959, nominal size 150/16, and shall be accurately marked at 10 ml. They shall be plugged with cotton wool or covered with closely fitting aluminium caps or stored in such a way as to prevent contamination.

(2) Pipettes shall be 1.0 ml straight-sided blow out delivery pipettes, and shall be plugged with cotton wool at the upper end.

(3) Glassware and rubber stoppers shall be sterile immediately before use.

(4) The water bath shall be fitted with a reliable automatic thermo-regulator capable of maintaining the water at a temperature of 37.5°C ±0.5°C.

Method of carrying out the test

4.—(1) The sample shall be mixed thoroughly by inverting and shaking and the milk shall be transferred to a test tube up to the 10 ml mark in such a manner that one side of the interior of the test tube is not wetted with milk. 1 ml of methylene blue solution shall be added without letting the pipette come into contact with the milk in the tube or with the wetted side of the interior of the tube. After a lapse of 3 seconds, the solution remaining in the tip of the pipette shall be blown out. The test tube shall be closed with a rubber stopper, aseptic precautions being taken, and shall then be inverted twice slowly, so that the whole column of contained air rises above the level of the milk. Within a period of 5 minutes the test tube shall be placed in a water bath. The water in the bath shall be kept above the level of the milk in the test tube, and its temperature, which shall be between 37°C and 38°C, shall be maintained as nearly uniform as possible by means of a reliable automatic thermo-regulator. The interior of the bath shall be kept completely dark.

(2) A control tube shall be used for comparison with each batch of experimental tubes to indicate when decolourisation is complete. The control tube shall be prepared by immersing in boiling water for 3 minutes a stoppered test tube containing 1 ml of tap water and 10 ml of mixed milk having a fat content and colour similar to that of the milk being tested.

(3) The milk shall be regarded as decolourised when the whole column of milk is completely decolourised or is decolourised up to within 5 mm of the surface. A trace of colour at the bottom of the tube may be ignored provided that it does not extend upwards for more than 5 mm.

Interpretation

5. The test shall be deemed to be satisfied by milk which fails to decolourise methylene blue in 30 minutes.

PART III.—THE PHOSPHATASE TEST FOR PASTEURISED MILK

Examination of sample

1. The sample of milk shall be examined as soon as possible after arrival at the testing laboratory. If it is not examined immediately on arrival at the testing laboratory, it shall be kept at a temperature of between 3°C and 5°C until examined. The sample shall be raised to room temperature immediately before being tested.

Precautions

2. The following precautions shall be taken:—

(*a*) A sample which shows evidence of taint or souring shall not be tested.

(*b*) All glassware shall be clean immediately before use.

(*c*) A fresh pipette shall be used for each sample of milk. Pipettes shall not be contaminated with saliva.

(*d*) The test shall not be carried out in direct sunlight.

(*e*) Distilled water shall be used throughout.

Reagents

3.—(1) Whenever possible, reagents of analytical quality shall be used.

(2) The buffer-substrate solution shall be prepared as follows:—

(*a*) Buffer solution: 3.5 g of anhydrous sodium carbonate and 1.5 g of sodium bicarbonate shall be dissolved in distilled water, and made up to one litre.

(*b*) Substrate: Disodium p-nitrophenyl phosphate. The solid substrate shall be kept in a refrigerator.

(*c*) Buffer-substrate solution: 0.15 g of the substrate shall be placed in a 100 ml measuring cylinder, and made up to 100 ml with the buffer solution. The solution shall be stored in a refrigerator and protected from light. It shall give a reading of less than the standard marked 10 on the comparator disc A.P.T.W. or A.P.T.W.7 when viewed in transmitted light through a 25 mm cell in the "all purposes" comparator, distilled water being used for comparison. The solution shall not be used for more than one week.

Apparatus

4. The following apparatus shall be used:—

(*a*) A Lovibond "all purposes" comparator complete with stand for work in reflected light.

(*b*) A Lovibond comparator disc A.P.T.W. or A.P.T.W.7.

(*c*) Two fused glass cells, 25 mm depth.

(*d*) A water bath or incubator capable of being maintained at 37.5°C ± 0.5°C.

(*e*) A pipette to deliver 5.0 ml.

(*f*) A supply of 1.0 ml straight-sided pipettes of an accuracy equal to that of N.P.L. grade B.

(*g*) A 1,000 ml graduated flask.

(*h*) A 100 ml measuring cylinder.

(*i*) A supply of test tubes conforming to British Standard 625: 1959, nominal size 150/16, with rubber stoppers to fit.

Care of apparatus

5.—(1) After use, each test tube shall be emptied, rinsed in water, well washed in hot water containing soda, rinsed in warm water, rinsed in distilled water and finally dried.

(2) If after treatment in accordance with sub-paragraph (1) hereof a test tube does not appear to be clean, the treatment shall be repeated with the addition that after being rinsed in warm water it shall be soaked in 50 per

cent commercial hydrochloric acid and then rinsed again in warm water before being rinsed in distilled water and finally dried.

(3) New glassware shall be cleaned by soaking in chromic acid solution prepared as follows—

5 volumes of 8 per cent W/V potassium bichromate

4 volumes of concentrated sulphuric acid. This should be added slowly and carefully to the mixture of bichromate and water.

The solution shall be kept covered and shall be discarded when it becomes green. After cleaning in chromic acid solution, new glassware shall be rinsed in warm water, rinsed in distilled water and finally dried.

(4) Pipettes shall be well rinsed in cold water and then cleaned by soaking for 24 hours in chromic acid solution in a 250 ml glass cylinder or other suitable container. The pipettes shall then be well rinsed in warm water, rinsed in distilled water and finally dried.

(5) Glassware used for the test shall not be used for any other purpose and shall be kept apart from all other apparatus in the laboratory.

Method of carrying out the test

6. 5 ml of the buffer-substrate solution shall be transferred to a test tube using a pipette and the test tube shall be stoppered and brought to a temperature of 37°C. 1 ml of the milk to be tested shall be added, the test tube stopper replaced and the contents well mixed by shaking. The test tube shall then be incubated for exactly 2 hours at 37°C. One blank prepared from boiled milk of the same type as those undergoing the test shall be incubated with each series of samples. (Where the sample consists of highly coloured milk, such as homogenised milk or milk from Channel Island cows, a separate blank of such milk shall be prepared). After incubation the test tube shall be removed from the water bath and its contents shall be well mixed. The blank shall be placed on the left hand ramp of the stand and the test sample on the right. Readings shall be taken in reflected light by looking down on to the two apertures with the comparator facing a good source of daylight (preferably north light). If artificial light is needed for matching, a "daylight" type of illumination must be used. The disc shall be revolved until the test sample is matched. Readings falling between two standards shall be recorded by affixing a plus or minus sign to the figure for the nearest standard.

Interpretation

7. The test shall be deemed to be satisfied by milk which gives a reading of 10 μg or less of p-nitrophenol/ml of milk.

PART IV.—THE TURBIDITY TEST FOR STERILISED MILK

Examination of sample

1. The sample of milk may be examined at any time after delivery to the testing laboratory but shall be at room temperature when the test is begun.

Reagent

2. Ammonium sulphate A.R. shall be used.

Apparatus

3. The following apparatus shall be used:—

(*a*) Conical flasks of 50 ml capacity.

(*b*) Graduated cylinders of 25 ml capacity.

(*c*) Test tubes conforming to British Standard 625:1959, nominal size 150/16.

(*d*) Filter funnels of 6 cm diameter.

(*e*) Beakers of 400 ml capacity.

(*f*) 12.5 cm No. 2V Whatman folded filter papers or equivalent.

Method of carrying out the test

4. 4 ±0.1 g of ammonium sulphate shall be weighed into a 50 ml conical flask. 20 ±0.5 ml of the milk sample shall be measured out and poured into the conical flask, the flask being shaken for 1 minute to ensure that the ammonium sulphate dissolves. The mixture shall be left for not less than 5 minutes and then filtered through a folded filter paper into a test tube. When not less than 5 ml of a clear filtrate have collected, the tube shall be placed in a beaker of water, which has been kept boiling, and kept therein for 5 minutes. The tube shall be transferred to a beaker of cold water, and when the tube is cool, the contents shall be examined for turbidity by moving the tube in front of an electric light shaded from the eyes of the observer.

Interpretation

5. The test shall be deemed to be satisfied when a sample of milk treated as in paragraph 4 hereof gives a filtrate showing no sign of turbidity.

PART V.—THE COLONY COUNT TEST FOR MILK TREATED BY THE ULTRA HIGH TEMPERATURE METHOD AND STERILISED MILK HEATED BY A CONTINUOUS-FLOW METHOD

Apparatus

1. The following apparatus shall be used:—

(*a*) McCartney bottles of 28 ml capacity.

(*b*) Test tubes plugged with cotton wool or covered with closely fitting aluminium caps or stored in such a way as to prevent contamination.

(*c*) A standard iridium platinum loop of 4 mm internal diameter made from gauge wire containing 10 per cent iridium. The loop, when used as directed, should transfer about 0.01 ml of milk to the molten medium in a tube or a McCartney bottle.

(*d*) An incubator capable of operating at a preselected temperature within the range 30°C to 37°C and of maintaining the preselected temperature within ± 1°C.

(*e*) A water bath capable of maintaining the water at a temperature of not less than 45°C and not more than 50°C.

(*f*) A refrigerator fitted with a reliable automatic thermo-regulator capable of maintaining a temperature of beween 3°C and 5°C.

Culture medium

2. A culture medium prepared as follows should be used:—

(*a*) Yeastrel milk agar constituted as follows: —

Yeastrel	3g.
Peptone	5g.
Agar	15g.
(If New Zealand agar is used 12g is normally sufficient.)	
Fresh whole milk	10 ml.
Distilled water	1,000 ml.

(*b*) The yeastrel and peptone shall be dissolved in the distilled water in a steamer and the reaction at room temperature adjusted to pH 7.4, using phenol red as an indicator or using a pH meter. When phenol red is used, a brightness screen must be employed with Lovibond phenol red disc 2/IJ. The agar and the milk shall then be added to the broth and autoclaved at 121°C for 25 minutes. If shredded agar is used, it shall be wrapped in muslin and washed in running water for 15 minutes, the excess water being squeezed out before the agar is added to the broth. To ensure thorough mixing and that heat treatment of the bulk at this stage is equivalent to the final sterilisation of the tubed medium, quantities of not more than 2 litres shall be autoclaved in 3-litre conical flasks. The hot medium shall then be filtered through paper pulp in a Buchner funnel.

(*c*) The pulp shall be prepared by mashing up small pieces of filter paper in water and boiling. The funnel shall be inserted into an Erlenmeyer flask fitted with a side piece and a single layer of filter paper laid on the top of the Buchner funnel to prevent the pulp being sucked through. The hot pulp shall then be poured on to the filter paper and a filter pump applied to suck through the excess water, which shall then be poured away. The pulp should be firmly packed down just before the last of the water is sucked through. At this stage a layer of filter paper shall be laid on the filter bed, so that the hot medium can subsequently be poured on to it without disturbing the pulp. The filter when ready for use should have a total depth of about 1.5 mm. (A pulp layer of suitable and approximately the same depth for any size of funnel is obtained by pulping an area of filter paper equal to four times the square of the diameter of the funnel. With ordinary grade filter paper 1g of the dry paper will be required for every 20 sq cm of filtering area.)

(*d*) The flask and funnel shall be thoroughly hot before filtering commences and these and the medium shall be kept hot during filtering. The medium shall be taken direct from the autoclave, poured on to the pulp where the filter paper is laid and the vacuum pump connected.

(*e*) The reaction of the filtrate shall be tested at 50°C and adjusted if necessary to pH 7.0. Adjustment at this stage should not normally be necessary, and if it is needed at all frequently, the method of preparation should be checked.

(*f*) The medium shall be distributed in 5 ml quantities in 6 test tubes conforming to British Standard 625: 1959, nominal size 150/16 or in 28 ml McCartney bottles and autoclaved at 121°C for 15 minutes.

(*g*) The final reaction of the medium at room temperature shall be pH 7.2.

Alternative medium

3. A dehydrated medium of the same composition may be used provided that it has been shown to give similar results.

Incubation of sample

4. On arrival at the laboratory the sample shall be placed unopened in the incubator at a temperature of between 30°C and 37°C and retained at that temperature for 24 hours.

Mixing of sample prior to examination

5. At the end of the 24-hour incubation period, the sample shall be removed from the incubator and shall be mixed thoroughly by inverting the container and shaking it.

Method of carrying out the test

6. (*a*) After the sample has been thoroughly mixed as described above, it shall be opened with aseptic precautions as follows: —

(i) If the sample is contained in a carton, one of the corners or edges of the carton shall be thoroughly swabbed with alcohol and the excess burnt off. The carton shall then be opened by cutting off this corner or edge using a pair of sterile scissors.

(ii) If the sample is contained in a bottle, the closure and neck of the bottle shall be thoroughly swabbed with alcohol and the excess burnt off. The closure shall then be removed by means of a sterile opener.

(iii) If the sample is in a container other than a carton or bottle a suitable surface of the container shall be thoroughly swabbed with alcohol and the excess burnt off. A hole in that sterile surface shall then be punched using a sterile tool.

(*b*) Immediately after opening the sample container, the cap from a sterile McCartney bottle shall be removed and approximately 10 ml of the sample transferred by means of a sterile pipette to the bottle, the cap replaced and the McCartney bottle put in the refrigerator. A further 10 ml (approximately) of the sample shall be transferred to a sterile test tube after removing the plug. The plug shall then be replaced.

(*c*) With as little delay as possible, a loopful of milk from the test tube sample shall be transferred to a sterile test tube or 28 ml McCartney bottle containing about 5 ml of melted yeastrel milk agar medium at 45°C to 50°C. The loop, after being flame-sterilised and cooled, shall

be lowered into the milk about 25 mm below the surface and a loopful of milk withdrawn and transferred to the molten medium in the tube or McCartney bottle. The contents of the tube or bottle shall then be carefully mixed, the tube or bottle placed in a sloping position (the medium being at least 12 mm from the closure) and the medium allowed to set. The tube or bottle shall then be incubated in a sloping position at a temperature of between 30°C and 37°C for 48 hours and at the end of that time it shall be examined for the presence of colonies.

Counting of colonies

7. Colonies shall be counted within 4 hours of the expiry of the incubation period.

Interpretation

8. The test shall be deemed to be satisfied by a sample if the number of colonies is found to be less than 10. If there is any doubt about the result, the test should be repeated using the sample in the McCartney bottle placed in the refrigerator.

Regulation 7(1)

SCHEDULE 4

FORM A

MILK (SPECIAL DESIGNATION) REGULATIONS 1977

PRODUCER'S LICENCE AUTHORISING THE USE OF THE SPECIAL DESIGNATION "UNTREATED"

The Minister of Agriculture, Fisheries and Food hereby authorises ..... of ..... to use the special designation "Untreated" in relation to milk produced from a herd at ..... in accordance with the conditions prescribed in the Milk (Special Designation) Regulations 1977.

This licence is not transferable and is subject to the conditions prescribed in the above-named regulations and, unless suspended or revoked, will operate until .....

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

For and on behalf of the Minister of Agriculture, Fisheries and Food.

FORM B

MILK (SPECIAL DESIGNATION) REGULATIONS 1977

DEALER'S (UNTREATED) LICENCE AUTHORISING THE USE OF THE SPECIAL DESIGNATION "UNTREATED"

The ..... hereby authorise ..... of ..... (referred to herein as "the dealer") to use the special designation "Untreated" in relation to milk obtained by the dealer otherwise than pre-packed which is resold or intended for resale 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.

FORM C

MILK (SPECIAL DESIGNATION) REGULATIONS 1977

DEALER'S (PASTEURISER'S) LICENCE AUTHORISING THE USE OF THE SPECIAL DESIGNATION "PASTEURISED"

The ..... hereby authorise ..... of ..... to use the special designation "Pasteurised" in relation to milk which has been pasteurised at ..... in accordance with the conditions prescribed in the Milk (Special Designation) Regulations 1977 for the purpose of sale.

This licence is not transferable and is subject to the conditions prescribed in the above-named regulations and, unless suspended or revoked, will operate until .....

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

Proper Officer of the ..... Council.

FORM D

MILK (SPECIAL DESIGNATION) REGULATIONS 1977

DEALER'S (STERILISER'S) LICENCE AUTHORISING THE USE OF THE SPECIAL DESIGNATION "STERILISED"

The ..... hereby authorise ..... of ..... to use the special designation "Sterilised" in relation to milk treated by the sterilising process at ..... in accordance with the conditions prescribed in the Milk (Special Designation) Regulations 1977 for the purpose of sale.

This licence is not transferable and is subject to the conditions prescribed in the above-named regulations and, unless suspended or revoked, will operate until .....

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

Proper Officer of the ..... Council.

FORM E

MILK (SPECIAL DESIGNATION) REGULATIONS 1977

DEALER'S (ULTRA HEAT TREATED) LICENCE AUTHORISING THE USE OF THE SPECIAL DESIGNATION "ULTRA HEAT TREATED"

The .....
hereby authorise ..... of .....
..... to use the special designation "Ultra Heat Treated" in relation to milk which has been treated by the ultra high temperature method at ..... in accordance with the conditions prescribed in the Milk (Special Designation) Regulations 1977 for the purpose of sale.

This licence is not transferable and is subject to the conditions prescribed in the above-named regulations and, unless suspended or revoked, will operate until .....

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

Proper Officer of the ..... Council.

FORM F

MILK (SPECIAL DESIGNATION) REGULATIONS 1977

DEALER'S (PRE-PACKED MILK) LICENCE AUTHORISING THE USE OF THE SPECIAL DESIGNATION(S) (a) "UNTREATED"* (b) "PASTEURISED"* (c) "STERILISED"* (d) "ULTRA HEAT TREATED"*

The .....
hereby authorise ..... of .....
..... (referred to herein as "the dealer") to use the special designation (a) "Untreated"* (b) "Pasteurised"* (c) "Sterilised"* (d) "Ultra Heat Treated"* in relation to milk which is—

†(i) obtained by the dealer pre-packed as (a) "Untreated"* (b) "Pasteurised"* (c) "Sterilised"* (d) "Ultra Heat Treated"* as the case may be from

†(ii) pasteurised*, sterilised* or treated by the ultra high temperature method* as the case may be, by the dealer in accordance with the conditions prescribed in the Milk (Special Designation) Regulations 1977 at

premises in respect of which 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 above-named regulations and, unless suspended or revoked, will operate until .....

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

Proper Officer of the ..... Council.

†* Strike out if inapplicable.

SCHEDULE 5

Regulations 11, 12, 16 and 17

TRIBUNALS

PART I.—CONSTITUTION

1. A tribunal shall consist of a chairman and two other members.

2.—(1) Where the issue referred to the tribunal is in respect of a producer's licence—

(a) the chairman shall be an independent person appointed by the Minister;

(b) one member shall be a person appointed by the Minister from a panel nominated jointly by the National Farmers' Union and the Milk Marketing Board;

(c) one member shall be a person appointed by the Minister, after consultation with the Secretary of State, as being representative of the consumers' interest.

(2) Where the issue referred to the tribunal is in respect of a dealer's licence—

(a) the chairman shall be an independent person appointed by the Minister;

(b) one member shall be a person appointed by the Minister as being representative of the milk distributive trade;

(c) one member shall be a person appointed by the Minister, after consultation with the Secretary of State, as being representative of the consumers' interest.

(3) Where the issue referred to the tribunal is in respect of a producer's licence and there is outstanding a reference to a tribunal in respect of a dealer's licence, or where the issue referred to the tribunal is in respect of a dealer's licence and there is outstanding a reference to a tribunal in respect of a producer's licence, and where both references relate to the same premises and the person or council affected is the same—

(a) the chairman shall be an independent person appointed by the Minister;

(b) one member shall be a person appointed by the Minister as being representative of producers and distributors of milk;

(c) one member shall be a person appointed by the Minister, after consultation with the Secretary of State, as being representative of the consumers' interest.

3.—(1) A chairman shall hold office for three years, and a chairman whose term of office expires shall be eligible to be re-appointed as chairman.

(2) A chairman may resign his office by notice in writing served on the Minister.

(3) If the Minister is satisfied that the chairman is incapacitated by infirmity of mind or body from discharging the duties of his office, or is adjudged bankrupt or makes a composition or arrangement with his creditors, he may revoke the appointment of the chairman.

(4) If the Minister is satisfied that the chairman is prevented by sickness or any other reason from acting on any reference to the tribunal, he may appoint an independent person to act in place of the chairman on that reference.

PART II.—PROCEDURE

1. Where in accordance with these regulations any issue as to the revocation or suspension of a licence or refusal of grant of a licence by way of renewal of such licence is required to be referred to a tribunal by the Minister, he shall forthwith inform the chairman of the tribunal of the reference to the tribunal and of the name and address of the person or council affected. He shall send to the chairman and to the members of the tribunal copies of the notice of decision or proposed decision to refuse, suspend, or revoke the licence, as the case may be, and of any representations made by the person or council affected.

2. The chairman on being informed of the reference to the tribunal shall fix a convenient date and place for the hearing of the reference.

3.—(1) The person or council affected shall have the right to be heard by the tribunal by himself or by counsel or a solicitor or other representative as he or the council may elect.

(2) The licensing authority or the Minister may be represented by any person instructed in that behalf.

4.—(1) At the hearing of the reference the tribunal shall give an opportunity to the person or council affected, or to the representative thereof, to address the tribunal and call witnesses. The representative of the licensing authority or the Minister may cross-examine the person affected, if he elects to give evidence, and any witnesses called by him or by the council affected.

(2) The tribunal shall give the representative of the licensing authority or the Minister an opportunity to address the tribunal and to call witnesses. The person or council affected, or the representative thereof, may cross-examine any witnesses called by another person.

5. The tribunal may, if they wish, visit and inspect any premises to which the reference relates.

6.—(1) It shall be the duty of the tribunal on any reference to report findings on any questions of fact appearing to them to be relevant, and in particular, where the issue is as to revocation or suspension on the ground of a breach of condition not being one by virtue of which the holder of the licence has been convicted of an offence under section 43 of the Food and Drugs Act 1955, to find and report whether the breach was in fact committed.

(2) The report of the tribunal, which shall be in writing, shall include the reasons for the findings and the chairman shall submit the report to the Minister without delay.

7. The tribunal may take notice of the circumstances existing at the date of the hearing, where there has been any change of circumstances since the date of the notice issued by the licensing authority.

8. The tribunal may adjourn the hearing from time to time if for any reason it appears to them necessary or desirable so to do.

9. In the event of a difference of opinion amongst the members of the tribunal, the determination of the majority of them shall be the determination of the tribunal.

10. The hearing shall be open to the public.

11. Save as in this Schedule expressly provided, the tribunal shall have power to regulate their own procedure.

Regulation 21

SCHEDULE 6

REVOCATIONS

Regulations revoked	References
The Milk (Special Designation) Regulations 1963	S.I. 1963/1571 (1963 III, p. 2937).
The Milk (Special Designation) (Amendment) Regulations 1965	S.I. 1965/1555 (1965 II, p. 4543).
The Milk (Special Designation) (Amendment) Regulations 1972	S.I. 1972/1117 (1972 II, p. 3322).
The Milk (Special Designation) (Amendment) Regulations 1974	S.I. 1974/62 (1974 I, p. 202).

EXPLANATORY NOTE

(This Note is not part of the regulations.)

These regulations, which apply to England and Wales only, come into operation on 1st August 1977. They re-enact with amendments the Milk (Special Designation) Regulations 1963, as amended.

The principal change made by the regulations is the insertion of a condition requiring that milk in relation to which the special designation "Untreated" is used shall come from a herd accredited as free from brucellosis (Schedule 2, Part I, paragraph C.3). Producers' licences granted under regulation 8 and dealers' licences to use the special designation "Untreated" granted under regulation 13 are subject to the new condition (regulation 6). The condition also applies to the general licence granted by regulation 9 to specified producers who sell milk, produced from herds owned or controlled by them, in the course of catering sales at or from the premises where the herds are maintained (regulation 9(2)(b)).

Transitional provision is made by regulation 22—

(a) to save, subject to the new regulations, existing licences to use special designations granted under the 1963 Regulations but, in the case of producers' licences, only if the herd from which the milk is produced is accredited as free from brucellosis;

(b) generally for securing continuity of application of the Milk (Special Designation) Regulations.

SI 1977/1033
ISBN 0-11-071033-9

