STATUTORY INSTRUMENTS

1989 No. 2383

FOOD

MILK AND DAIRIES

The Milk (Special Designation) Regulations 1989

Made - - - -	*18th December 1989*
Laid before Parliament	*21st December 1989*
Coming into force -	*1st April 1990*

ARRANGEMENT OF REGULATIONS

Part I.	Title, commencement and interpretation.	Regulations 1, 2.
Part II.	General provisions as to licences.	Regulations 3 to 7.
Part III.	Grant of producers' licences.	Regulation 8.
Part IV.	Refusal, suspension and revocation of producers' licences and appeals arising therefrom.	Regulations 9 to 11.
Part V.	Provisions relating to the granting of untreated milk distributors' licences.	Regulations 12, 13.
Part VI.	Provisions relating to the granting of dealers' licences.	Regulations 14, 15.
Part VII.	Refusal, suspension and revocation of untreated milk distributors' licences and dealers' licences and appeals arising therefrom.	Regulations 16 to 19.
Part VIII.	Miscellaneous provisions including revocations.	Regulations 20 to 22.

SCHEDULES

Schedule 1. General conditions subject to which all licences are granted.

Schedule 2. Special conditions subject to which licences to use the special designation "Untreated" are granted.

Schedule 3. General conditions subject to which licences to use special designations other than "Untreated" are granted.

Schedule 4. Special conditions subject to which licences to use special designations other than "Untreated" are granted.

Part I. Pasteurised.

Part II. Sterilised.

Part III. Ultra Heat Treated.

Schedule 5.
Part I. Detailed conditions as to sampling.
Part II. The coliform test for untreated milk and pasteurised milk.
Part III. The plate count test for raw milk, bulk milk heat treated for transportation, untreated milk, pasteurised milk, sterilised milk and milk treated by the ultra high temperature method.
Part IV. The phosphatase test for pasteurised milk.
Part V. The turbidity test for sterilised milk.
Schedule 6. Detailed conditions as to labelling.
Schedule 7. Forms of licences.
Schedule 8. Tribunals.
Part I. Constitution.
Part II. Procedure.

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by sections 38, 74(3) and 118 of the Food Act 1984(a) and now vested in them(b) and of all other powers enabling them in that behalf, after consultation in accordance with section 118(6) of that Act with such organisations as appear to them to be representative of interests substantially affected by the Regulations and with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(c), hereby make the following Regulations:–

PART I

TITLE, COMMENCEMENT AND INTERPRETATION

Title and commencement

1. These Regulations may be cited as the Milk (Special Designation) Regulations 1989, and shall come into force on 1st April 1990.

Interpretation

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;

"the Act" means the Food Act 1984;

"brucellosis" means the disease caused by brucello abortus;

"bulk milk" means milk which is not pre-packed;

(a) 1984 c.30; section 132(1) contains a definition of "the Ministers" relevant to the exercise of the statutory powers under which these Regulations are made.
(b) In the case of the Secretary of State for Health, by virtue of S.I. 1988/1843.
(c) 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 the special designation "Pasteurised", "Sterilised" or "Ultra Heat Treated" in relation to milk sold by him and "licensed dealer" means a person to whom a dealer's licence has been granted;

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

"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 animals 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 Act 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 and the Secretary of State acting jointly;

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

"presentation", in relation to milk, includes the appearance or packaging of the milk, the way in which the milk is arranged when it is exposed for sale and the setting in which the milk is displayed with a view to sale, but does not include any form of labelling or advertising;

"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 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;

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

"specified area" means an area in which section 40 of the Act is in operation;

"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 producer's licence; and "licensed untreated milk distributor" means a person to whom an untreated milk distributor's licence has been granted.

(2) Any reference in these Regulations to a licence granted under Regulations shall be taken to include a licence continued in force by them.

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

PART II

GENERAL PROVISIONS AS TO LICENCES

Special designations

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".

Application for licence

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.

Refusal of licence

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.

Conditions of licences

6.—(1) Every licence to use the special designation "Untreated" shall be subject to such of the following conditions as are applicable:–

(a) the general conditions set out in Schedule 1,

(b) the special conditions set out in Schedule 2,

(c) the detailed conditions as to sampling set out in Part I of Schedule 5, and as to testing set out in Parts II and III of that Schedule,

(d) the detailed conditions as to labelling set out in Schedule 6.

(2) Every licence to use the special designation "Pasteurised" shall be subject to such of the following conditions as are applicable:–

(a) the general conditions set out in Schedules 1 and 3,

(b) the special conditions set out in Part I of Schedule 4,

(c) the detailed conditions as to sampling set out in Part I of Schedule 5, and as to testing set out in Parts II, III and IV of that Schedule,

(d) the detailed conditions as to labelling set out in Schedule 6.

(3) Every licence to use the special designation "Sterilised" shall be subject to such of the following conditions as are applicable:–

(a) the general conditions set out in Schedules 1 and 3,

(b) the special conditions set out in Part II of Schedule 4,

(c) the detailed conditions as to sampling set out in Part I of Schedule 5, and as to testing set out in Parts III and V of that Schedule,

(d) the detailed conditions as to labelling set out in Schedule 6.

(4) Every licence to use the special designation "Ultra Heat Treated" shall be subject to such of the following conditions as are applicable:–

(a) the general conditions set out in Schedules 1 and 3,

(b) the special conditions set out in Part III of Schedule 4,

(c) the detailed conditions as to sampling set out in Part I of Schedule 5, and as to testing set out in Part III of that Schedule,

(d) the detailed conditions as to labelling set out in Schedule 6.

Form of licence

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

(a) a producer's licence authorising the use of the special designation "Untreated" shall be in form A,

(b) an untreated milk distributor's licence authorising the use of the special designation "Untreated" for untreated farm bottled milk shall be in form B,

(c) a dealer's licence authorising the use of the special designation "Pasteurised" (where pasteurisation has been carried out by the dealer) shall be in form C,

(d) a dealer's licence authorising the use of the special designation "Sterilised" (where sterilisation has been carried out by the dealer) shall be in form D,

(e) a dealer's licence authorising the use of the special designation "Ultra Heat Treated" (where ultra heat treatment has been carried out by the dealer) shall be in form E,

(f) a dealer's licence authorising the use of the special designations "Pasteurised", "Sterilised", "Ultra Heat Treated", in respect of pre-packed milk shall be in form F.

(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

GRANT OF PRODUCERS' LICENCE

Producers' licences

8.—(1) Subject to the provisions of these Regulations,–

(a) every producer's licence shall be granted by the Minister;

(b) every producer's licence shall continue in effect until the expiration of the period of three years in which it takes effect, being one of the periods of three years ending with 31st October in 1991 or in any third succeeding year;

(c) notwithstanding sub-paragraph (b) hereof, a producer's licence may be granted by the Minister for a temporary purpose 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.

PART IV

REFUSAL, SUSPENSION AND REVOCATION OF PRODUCERS' LICENCES AND APPEALS ARISING THEREFROM

Refusal, suspension and revocation of producers' licences

9.—(1) The Minister shall not revoke a producer's licence being a licence to which section 45 of the Act 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 45 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 39, 40 or 41 of the 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 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 regulation 10.

Procedure

10.—(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 regulation 9 and to paragraph (2) below, the Minister may suspend or revoke a producer's licence on the ground of any breach of a condition thereof, being a breach by virtue of which the producer has been convicted of an offence under section 45 of the Act, or which, not being such a breach as aforesaid, is proved (in a case referred to a tribunal by virtue of these Regulations) by the finding of the tribunal, or (in any other case) to the satisfaction of the Minister.

(2) No producer's licence shall 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.

(3) 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 paragraph (4) below.

(4) The person affected may within 21 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 of 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 consituted 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 8 and on receipt of the tribunal's report the Minister shall send a copy thereof to the person affected.

(5) The decision of the 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. The Minister shall serve on the person affected a notice informing him of the decision and the reasons therefor.

(6) 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.

Tribunals

11. 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 8.

PART V

PROVISIONS RELATING TO THE GRANTING OF UNTREATED MILK DISTRIBUTORS' LICENCES

Untreated milk distributors' licences

12.—(1) Subject to the provisions of these Regulations–

(a) every untreated milk distributor's licence, other than a licence specified in sub-paragraph (b) below, 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;

(b) every untreated milk distributor's 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;

(c) application may be made for an untreated milk distributor's licence in relation to farm bottled milk obtained by the applicant pre-packed from a licensed producer to use the special designation "Untreated" for the purpose of re-selling such milk to the ultimate consumer (as defined in Schedule 6) 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 72 of the Act.

Duration of untreated milk distributor's licences

13.—(1) Every untreated milk distributor's licence shall, subject to the provisions of these Regulations, continue in effect until the expiration of the period of three years in which it takes effect, being one of the periods of three years ending with 31st October in 1991 or in any third succeeding year.

(2) 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.

PART VI

PROVISIONS RELATING TO THE GRANTING OF DEALERS' LICENCES

Dealers' licences

14.—(1) Subject to the provisions of these Regulations,–

(a) every dealer's licence, other than a licence specified in sub-paragraph (b) below, shall be granted by the local authority for the area within which are situated the premises at or from the milk is to be pasteurised, sterilised, treated by the ultra high temperature method or sold, as the case may be;

(b) every dealer's 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;

(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 Schedule 3 and Part I of Schedule 4, sterilised by him in accordance with the provisions of Schedule 3 and Part II of Schedule 4, or treated by him by the ultra high temperature method in accordance with the provisions of Schedule 3 and Part III of Schedule 4;

(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 "Pasteurised", "Sterilised" or "Ultra Heat Treated" may be used by virtue of these Regulations, or

(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) above,

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) above, the applicant shall state the name and address of each person for whom he proposes to obtain the milk.

(3) In this regulation, the expression "local authority" has the meaning assigned to it by section 72 of the Act.

Duration of dealers' licences

15.—(1) Every dealer's licence 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 31 December in the year 1990 and in any fifth succeeding year.

(2) 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 paragraph (1) above.

PART VII

REFUSAL, SUSPENSION AND REVOCATION OF UNTREATED MILK DISTRIBUTORS' LICENCES AND DEALERS' LICENCES AND APPEALS ARISING THEREFROM

Refusal, suspension and revocation of untreated milk distributors' licences and dealers' licences

16.—(1) The licensing authority shall not revoke a licence being a licence to which section 45 of the Act 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 45 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 39, 40 or 41 of the 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 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 regulation 17.

Procedure

17.—(1) Subject, as respects suspension or revocation of a 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 licence on the ground of any breach of a condition thereof being a breach by virtue of which the holder has been convicted of an offence under section 45 of the Act, 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 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 sub-paragraph (b) below.

(b) The person affected may within 21 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 21 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 and the reasons for that decision.

(e) A decision of the licensing authority to suspend or revoke a licence shall not have effect until 21 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 21 days, and where the issue is as to revocation or suspension of 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 and the person affected so requests, the Minister shall refer the matter to a tribunal in accordance with the provisions of Schedule 8.

(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. The Minister shall give his decision in writing and shall give reasons for his decision.

(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 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 21 days, and where the issue is as to revocation or suspension of 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 and the council or board affected so requests, the Minister shall refer the matter to a tribunal in accordance with the provisions of Schedule 8.

(4) On the 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. The Minister shall give his decision in writing and shall give reasons for his decision.

(5) Where before the end of the period for which a licence was granted the holder of the 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 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 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.

Tribunals

18. 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 8.

Interpretation of "licence"

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

PART VIII

MISCELLANEOUS PROVISIONS INCLUDING REVOCATIONS

Internal trade

20.—(1) Where milk is brought into England and Wales from Scotland–

(a) A Scottish licence (that is to say a licence granted under legislation having effect for the time being in Scotland) authorising the use, in relation to that milk, of a designation corresponding to a special designation prescribed by these Regulations shall have effect as if it had been granted under these Regulations, and

(b) so far as any conditions prescribed in these Regulations for a licence authorising the use of that special designation would relate to anything to be done before that milk enters England and Wales, they shall be deemed to be satisfied if the corresponding conditions of that Scottish licence are complied with.

(2) Where milk is brought into England and Wales from Northern Ireland–

(a) a Northern Irish licence (that is to say a licence granted under legislation having effect for the time being in Northern Ireland) authorising the sale, offer or exposure for sale of that milk under a designation corresponding to a special designation prescribed by these Regulations shall have effect as if it had been granted under these Regulations, and

(b) so far as any conditions prescribed in these Regulations for a licence authorising the use of that special designation would relate to anything to be done before that milk enters England and Wales, they shall be deemed to be satisfied if the corresponding conditions attaching to that Northern Irish licence are complied with.

Enforcement

21.—(1) The provisions of section 45 of the Act (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" means a local authority within the meaning of the Local Government Act 1972**(a)**.

(3) 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.

Revocation and savings

22.—(1) Any licence to use a special designation granted under the Milk (Special Designation) Regulations 1988**(b)** and in force immediately before the coming into force 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.

(2) The Milk (Special Designation) Regulations 1988 are revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 12th December 1989.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

(a) 1972 c.70; the definition of "local authority" in section 270(1) was amended by the Local Government Act 1985 (c.51), section 102(2) and Schedule 17.
(b) S.I. 1988/2204.

18th December 1989

Kenneth Clarke
Secretary of State for Health

12th December 1989

Peter Walker
Secretary of State for Wales

SCHEDULE 1

Regulation 6(1)(a), (2)(a), (3)(a) and (4)(a)

GENERAL CONDITIONS SUBJECT TO WHICH ALL 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), on each occasion before it is used for the milk to which the licence applies. The licensing authority may permit such cleansing to be dispensed with in appropriate cases, having regard to the special designation next to be used.

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.—(1) The holder of the licence shall–

(a) keep accurate records of–

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

(ii) the quantities of milk delivered, other than by way of purchase or sale, to or from the premises to which the licence applies and of the names and addresses of the persons, other than consumers, from or to whom such deliveries were made;

(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.

(2) For the purposes of sub-paragraph (1)(c) above the expression "licensing authority" means the licensing authority for the licensing area in which the arrangements or processes referred to therein are maintained or operated or in which the records referred to therein 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, amended by S.I. 1962/1288, 1973/1064, 1977/171, 1979/1567, 1982/1703 and 1985/68.

SCHEDULE 2

Regulation 6(1)(b)

SPECIAL CONDITIONS SUBJECT TO WHICH LICENCES TO USE THE SPECIAL DESIGNATION "UNTREATED" ARE GRANTED

A. Conditions applicable to producers' licences

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 licensed producer shall not sell the milk otherwise than at or from the premises where the herd is maintained ("the farm premises").

4.—(1) The licensed producer shall not sell the milk otherwise than–

(a) to a licensed untreated milk distributor in whose licence he is named,

(b) to an ultimate consumer as defined in Schedule 6,

(c) to temporary guests or visitors for consumption on the farm premises, as or as part of a meal or refreshment, in such circumstances that the sale is not merely incidental to the rendering of health, education or other services.

(2) Save as provided for in sub-paragraph (1)(c) above, the milk shall not be sold as, or as part of, a meal or refreshment.

5. Where the milk is consumed on the farm premises the licensed producer must display a notice in a prominent position where it can be seen by the consumers. The notice must be legible and conspicuous and must state: "Milk supplied in this establishment has not been heat treated and may therefore contain organisms harmful to health".

6.—(1) Milk which is sold otherwise than for consumption on the farm premises shall be placed in containers with a capacity not exceeding 1.25 litres by the licensed producer at the place of production and shall be sold in those containers.

(2) Every such container of milk shall be tightly closed and securely fastened–

(a) in the case of a bottle, with a cap overlapping the lip of the bottle or in some other suitable manner approved by the licensing authority, and

(b) in the case of a container other than a bottle, in a suitable manner approved by the licensing authority.

B. Conditions applicable to untreated milk distributor's licences

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 containers which have a capacity not exceeding 1.25 litres.

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

3. The licensed untreated milk distributor shall not sell the milk otherwise than to an ultimate consumer (as defined in Schedule 6) and shall not use any shop for the sale of the milk.

4. The milk shall not be sold as, or as part of, a meal or refreshment.

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

1. The milk shall come from an accredited herd.

2. The milk shall not at any stage have been treated by heat or in any manner likely to affect its nature or qualities.

3. 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 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 5, satisfy the coliform test and the plate count test prescribed in Parts II and III of that Schedule. The sample shall be deemed to satisfy the coliform test if the coliform count is less than 100 per ml. The sample shall be deemed to satisfy the plate count test if the plate count is not more than 20,000 per ml.

4. When milk is sold in containers to consumers–

(a) every such container shall be of a type approved by the licensing authority, and be closed and fastened in a manner satisfactory to that authority;

(b) every such container of milk shall be marked or labelled with the particulars specified in Schedule 6 unless the milk is intended for export to any place outside the United Kingdom.

5. On a sale to the ultimate consumer (as defined in Schedule 6) the presentation of the milk shall not be such that a purchaser is likely to be misled to a material degree as to the nature, substance or quality of the milk.

SCHEDULE 3 Regulation 6(2)(a), (3)(a) and (4)(a)

GENERAL CONDITIONS SUBJECT TO WHICH LICENCES TO USE SPECIAL DESIGNATIONS OTHER THAN "UNTREATED" ARE GRANTED

1. Every licensed dealer who receives raw milk from a producer or bulk milk which has, for the purposes of transportation, been heat treated shall as soon as practicable submit it to heat treatment in accordance with these Regulations or despatch it in milk tankers or other suitable containers, whether by sale or otherwise, to an establishment for heat treatment.

2. Milk which has been heat treated in another Member State of the European Economic Community shall not be accepted for further heat treatment unless it is accompanied by a certificate prescribed by the Importation of Milk Regulations 1988(a).

3. Milk which is transferred from one container to another prior to heat treatment shall be so treated as soon as practicable after the first container has been opened.

4. Raw milk shall not be accepted for heat treatment unless–

(a) over the preceding two months not less than two samples have been taken each month of the producer's raw milk, the samples have been submitted to a plate count test the results of which have been recorded and the geometric average of those results is not more than 100,000 per ml.; or

(b) the licensed dealer has purchased the milk as bulk milk which complies with the requirements of sub-paragraph (a) above and with a written warranty to that effect.

5. Raw milk which is not heat treated within 36 hours of its admission to the heat treatment establishment shall not be subjected to heat treatment unless–

(a) the holder of the licence has in the handling and storage of the milk taken steps to ensure that a sample of that milk taken and submitted to a plate count test achieves a result of not more than 200,000 per ml.; and

(b) a sample is taken of that milk, the sample submitted to a plate count test and the result is recorded.

6. In any proceedings for a breach of paragraph 4 or 5 above, evidence of a sample taken in accordance with Part I of Schedule 5 or of a plate count test carried out as prescribed in Part III of that Schedule shall be preferred to evidence of a sample taken or of a plate count test carried out, respectively, by any other method.

(a) S.I. 1988/1803.

7. The holder of the licence shall retain for a period of not less than three months–

(a) from the date of further heat treatment any certificate referred to in paragraph 2 above;

(b) any warranty referred to in paragraph 4(b) above;

(c) records made in compliance with paragraphs 4(a) and 5(b) above.

SCHEDULE 4 Regulation 6(2)(b), (3)(b) and (4)(b)

SPECIAL CONDITIONS SUBJECT TO WHICH LICENCES TO USE SPECIAL DESIGNATIONS OTHER THAN "UNTREATED" ARE GRANTED

PART I

PASTEURISED

A. Conditions applicable when pasteurised milk is produced from raw milk or from bulk milk heat treated for transportation

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,

(b) retained at a temperature of not less than 71.7°C. for at least fifteen seconds, or

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

and then immediately cooled to a temperature of not more than 10°C..

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. 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,

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 and automatically record each operation of the device. Such record shall be dated and preserved for a period of not less than three months.

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 preserved for a period of not less than three months.

5.—(1) A sample of the milk taken in accordance with Part I of Schedule 5 at the heat treatment establishment after pasterurisation shall satisfy the coliform test and the plate count test prescribed in Parts II and III of that Schedule. The sample shall be deemed to satisfy the coliform test if the coliform count is less than 1 per ml. The sample shall be deemed to satisfy the plate count test if the plate count is not more than 30,000 per ml.

(2) A sample of the milk taken in accordance with Part I of Schedule 5 at the heat treatment establishment after pasteurisation shall after incubation for 120 hours ± 2 hours at 6°C. satisfy the plate count test prescribed in Part III of that Schedule. The sample shall be deemed to satisfy the test if the plate count is not more than 100,000 per ml.

(3) A sample of the milk taken in accordance with Part I of Schedule 5 after pasteurisation and before delivery to the consumer shall satisfy the phosphatase test prescribed in Part IV of that Schedule. The sample shall be deemed to satisfy the test if the milk gives a reading of 10 μg or less of p-nitrophenol/ml. of milk.

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 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 marked or labelled with the particulars specified in Schedule 6 unless the milk is intended for export to any place outside the United Kingdom.

7. On a sale to the ultimate consumer (as defined in Schedule 6) the presentation of the milk shall not be such that a purchaser is likely to be misled to a material degree as to the nature, substance or quality of the milk.

B. Additional conditions applicable when pasteurised milk is produced from bulk milk which has been heat treated for transportation

1.—(1) Where any bulk milk which has, for the purposes of transportation, been heat treated in another heat treatment establishment is to be subjected to pasteurisation in accordance with these Regulations, the requirements specified in the following sub-paragraphs shall apply.

(2) Milk shall not be accepted for further heat treatment unless it has a temperature not exceeding 6°C. on admission to the heat treatment establishment and is retained at such a temperature until pasteurisation.

(3) The holder of the licence shall check and record the temperature of the milk on admission to the heat treatment establishment and immediately before pasteurisation.

(4) For purposes of identifying sources of supply which exceed a plate count of 100,000 per ml., in order to exclude such milk from pasteurisation in accordance with these Regulations, the holder of the licence shall–

(a) before pasteurisation take a sample of the milk in accordance with Part I of Schedule 5;

(b) submit it to the plate count test prescribed in Part III of that Schedule;

(c) record the result.

(5) The holder of the licence shall retain for a period of not less than three months the records made in compliance with sub-paragraphs (3) and (4) above.

PART II

STERILISED

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 five litres 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 V of Schedule 5. 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.—(1) A sample of the milk taken in accordance with Part I of Schedule 5 at the heat treatment establishment after sterilisation shall after incubation for 15 days at 30°C. satisfy the plate count test prescribed in Part III of that Schedule. The sample shall be deemed to satisfy the test if the plate count is not more than 10 per 0.1 ml.

(2) A sample of the milk taken in accordance with Part I of Schedule 5 after sterilisation and before delivery to the consumer shall satisfy the turbidity test prescribed in Part V of that Schedule. The sample shall be deemed to satisfy the test if it gives a filtrate showing no sign of turbidity.

5. Every bottle in which the milk is transported, exposed or offered for sale shall be marked or labelled with the particulars specified in Schedule 6 unless the milk is intended for export to any place outside the United Kingdom.

6. On a sale to the ultimate consumer (as defined in Schedule 6) the presentation of the milk shall not be such that a purchaser is likely to be misled to a material degree as to the nature, substance or quality of the 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 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 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 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 and automatically record each operation of the device. Such record shall be dated and preserved for a period of not less than three months.

4. Every container 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 III

ULTRA HEAT TREATED

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 135°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 135°C. shall be provided with a device which shall automatically divert the flow of any milk which is not raised to the authorised temperature and automatically record each operation of the device. Such record shall be dated and preserved for a period of not less than three months.

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 preserved for a period of not less than three months.

4. A sample of the milk taken in accordance with Part I of Schedule 5 at the heat treatment establishment after treatment by the ultra high temperature method shall after incubation for 15 days at 30°C. satisfy the plate count test prescribed in Part III of that Schedule. The sample shall be deemed to satisfy the test if the plate count is not more than 10 per 0.1 ml.

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) Every container of milk treated by the ultra high temperature method shall be marked or labelled with the particulars specified in Schedule 6 unless the milk is intended for export to any place outside the United Kingdom.

6. On a sale to the ultimate consumer (as defined in Schedule 6) the presentation of the milk shall not be such that a purchaser is likely to be misled to a material degree as to the nature, substance or quality of the milk.

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) below, will ensure compliance with paragraph 2 above provided 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 paragraph 2 above provided 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 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 3 above shall be carried out only with dry saturated steam.

7. In connection with the treatment of milk as aforesaid, appratus 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
Sodium dihydrogen orthophosphate
*di*Sodium hydrogen orthophosphate
*tri*Sodium orthophosphate
*penta*Sodium triphosphate
Sodium polyphosphates
*tetra*Sodium diphosphate
Sodium silicate
Sodium metasilicate
Sodium sulphate
Magnesium sulphate
Neutral or alkaline sodium sulphite
Unmodified starch
Sodium aluminate
Polyoxyethylene glycol (minimum molecular weight 1000).

SCHEDULE 5

Regulation 6(1)(c), (2)(c), (3)(c) and (4)(c) and Schedules 2, 3 and 4

PART I

DETAILED CONDITIONS AS TO SAMPLING

Taking of sample

1. A sample may 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 or licensed untreated milk distributor and the special designation is used or to be used in relation to that milk by him.

2. When the milk is in containers with a capacity not exceeding 1.25 litres, or when the milk has been treated by the ultra high temperature method whether or not such milk is in containers with a capacity not exceeding 1.25 litres, 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 with a capacity exceeding 1.25 litres, 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 for transport to the testing laboratory. The sample shall be transported to the testing laboratory with the least possible delay. Any sample, other than a sample of sterilised milk or of milk treated by the ultra high temperature method, which does not arrive at the testing laboratory on the day on which it is taken shall be discarded.

6. A sample of milk, other than sterilised milk or milk treated by the ultra high temperature method in each case in an unopened container, to be subjected to the coliform test prescribed in Part II of Schedule 5 or the plate count test prescribed in Part III of that Schedule, shall during its transportation to the testing laboratory, be retained at a temperature of not less than 0°C. and not more than 4°C..

PART II

THE COLIFORM TEST FOR UNTREATED MILK AND PASTEURISED MILK

Method of carrying out the test

1. Subject to paragraphs 2 and 3 below, the sample shall be tested by the method prescribed in the British Standard 4285: Section 3.7: 1987 (ISBN 0 580 15866 7).

2. The "Colony count technique" specified in paragraph 8 of the British Standard referred to in the preceding paragraph shall be used.

3. For the purpose of inoculation of Petri dishes 3 ml. of milk shall be transferred to a 150 mm. Petri dish or 1 ml. of milk transferred into each one of three 90 mm. Petri dishes.

4. Any sample on which the test is not begun within 24 hours of taking such sample shall be discarded.

PART III

THE PLATE COUNT TEST FOR RAW MILK, BULK MILK HEAT TREATED FOR TRANSPORTATION, UNTREATED MILK, PASTEURISED MILK, STERILISED MILK AND MILK TREATED BY THE ULTRA HIGH TEMPERATURE METHOD

1. The sample shall be tested by the method prescribed in the British Standard 4285: Section 2.1: 1984 (ISBN 0 580 14091 1).

2. Any sample–

(a) of raw milk, milk heat treated for the purposes of transportation or pasteurised milk, or

(b) of sterilised milk or milk treated by the ultra high temperature method where the sample is taken from an open container,

on which the test is not begun within 24 hours of taking such sample, shall be discarded.

3. The plated sample shall–

(a) in the case of pasteurised milk produced from raw milk or from bulk milk heat treated for transportation, be incubated for 25 hours at 21°C.,

(b) in any other case, be incubated for 72 hours at 30°C.

PART IV

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.

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

(e) Distilled or de-ionised 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 or de-ionised water, and made up to one litre.

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

(b) Buffer-substrate solution: 0.15 g. of the substrate shall be placed in a 100 ml. measuring cylinder, and made up of 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 or de-ionised 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 3218:1982, nominal size 150/16, with rubber stoppers to fit.

Care of apparatus

5.—(1) New glassware shall be cleaned and free from contamination from substances which may interfere with the test.

(2) 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 or de-ionised water and finally dried.

(3) If after treatment in accordance with sub-paragraph (2) above 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 or de-ionised water and finally dried.

(4) 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. A 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.

PART V

THE TURBIDITY TEST FOR STERILISING 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 3218: 1982, 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.

SCHEDULE 6

Regulation 6(1)(d), (2)(d), (3)(d) and (4)(d) and Schedules 2 and 4

DETAILED CONDITIONS AS TO LABELLLING

General labelling requirement

1 Subject to the following provisions of this Schedule, the particulars with which containers of milk must be marked or labelled pursuant to paragraph C4(b) of Schedule 2, paragraph A6(3) of Part I of Schedule 4, paragraph A5 of Part II of Schedule 4 or paragraph A5(3) of Part III of Schedule 4 are–

(a) the name of the milk;

(b) an indication of minimum durability;

(c) in the case of milk in relation to which the special designation "Untreated" is used, the name and address of the licensed producer and–

(i) if the container is marked or labelled with the name of the licensed untreated milk distributor, the words "distributed by" immediately preceding that name,

(ii) if the container is marked or labelled with the address (but not the name) of the licensed untreated milk distributor, the words "distributed from" immediately preceding that address;

(d) in the case of milk in relation to which a special designation other than "Untreated" is used, the name or business name and an address or registered office of the producer or packer or of a seller established in the European Economic Community;

(e) particulars of the place of origin or provenance of the milk if failure to give such particulars might mislead a purchaser to a material degree as to the true origin or provenance of the milk; and

(f) in the case of milk in relation to which the special designation "Untreated" is used–

(i) in respect of milk sold before 1 September 1990, the words "Raw Unpasteurised Milk" or "This Milk has not been heat treated and may therefore contain organisms harmful to health"; and

(ii) in respect of milk sold after 31 August 1990, the words "This milk has not been heat treated and may therefore contain organisms harmful to health".

Name of milk

2.—(1) The name of the milk shall be "Milk" qualified by the special designation in respect of which the licence is granted, except that the letters "U.H.T." may be used instead of the special designation "Ultra Heat Treated".

(2) The name may be further qualified by other words which make it more precise, and any such other words may (but need not) appear between the special designation (or the letters "U.H.T.") and the word "Milk".

Indication of minimum durability

3.—(1) Subject to the sub-paragraphs below, the minimum durability of milk shall be indicated by–

(a) the words "best before" followed by the date up to and including which the milk can reasonably be expected to retain its specific properties if properly stored, and

(b) any storage conditions which need to be observed if the milk is to retain its specific properties until that date.

(2) The date in the indication of minimum durability shall be expressed in terms of a day, month and year, in that order, except that–

(a) in the case of milk which can reasonably be expected to retain its specific properties for three months or less, it may be expressed in terms of a day and month only, and

(b) in the case of milk which can reasonably be expected to retain its specific properties for more than three months, it may be expressed in terms of a month and year only, if the words "best before" are replaced by the words "best before end".

(3) The date up to and including which milk can reasonably be expected to retain its specific properties if properly stored may appear on the labelling of the milk separately from the words "best before" or "best before end", as the case may be, provided that those words are followed by a reference to the place where the date appears.

(4) In the case of milk which is intended for consumption within six weeks of being packed, the minimum durability of the milk may be indicated by–

(a) the words "sell by"–

(i) followed (subject to sub-paragraph (5) below) by the latest recommended date of sale of the milk, expressed in terms of a day and month, and

(ii) immediately preceded or immediately followed by an indication of the period from the date of purchase for which the milk can reasonaby be expected to retain its specific properties if properly stored, and

(b) any storage conditions which need to be observed if the milk is to retain its specific properties for the period referred to in paragraph (a)(ii) of this sub-paragraph.

(5) Where the minimum durability of milk is indicated in the manner permitted by sub-paragraph (4) above, the latest recommended date of sale may appear on the labelling of the milk separately from the words "sell by", provided that those words are followed by a reference to the place where the date appears.

Field of vision

4.—(1) Where a container of milk is required to be marked or labelled with an indication of minimum durability, that indication shall appear in the same field of vision as the particulars specified in paragraph 1(a) and, in the case of milk in relation to which the special designation "Untreated" is used, the particulars specified in paragraph 1(f) of this Schedule.

(2) Where a container of milk is required by the Weights and Measures Act 1985**(a)** or by any statutory instrument made thereunder to be marked or labelled with an indication of net quantity, that indication shall appear in the same field of vision as the particulars specified in paragraph 1(a) and, in the case of milk in relation to which the special designation "Untreated" is used, the particulars specified in paragraph 1(f) of this Schedule and, if the container is also required to be marked or labelled with an indication of minimum durability, in the same field of vision as the indication of minimum durability.

Manner of marking or labelling

5.—(1) The particulars with which containers of milk are required to be marked or labelled in accordance with this Schedule shall be easy to understand, clearly legible and indelible, and the said particulars shall be marked in a conspicuous place in such a way as to be easily visible.

(2) The said particulars shall not in any way be hidden, obscured or interrupted by any other written or pictorial matter.

(3) Where the container is a bottle, the said particulars may, subject to sub-paragraph (4) below, appear on the bottle cap.

(4) The particulars specified in paragraph 1(f) of this Schedule shall appear in coloured lettering and, if the container is a bottle, shall appear elsewhere than on the cap.

Exemptions

6.—(1) Bottles intended for re-use need not be marked or labelled with any of the particulars specified in paragraph 1 of this Schedule except the particulars specified in paragraph 1(a), (e) and (f) and, in the case of milk in relation to which the special designation "Untreated" is used, the address of the licensed producer.

(2) Any container of milk whose largest surface has an area of less than ten square centimetres need not be marked or labelled with any of the particulars specified in paragraph 1 of this Schedule except the particulars specified in paragraph 1(a), (b), (e) and (f) and, in the case of milk in relation to which the special designation "Untreated" is used, the address of the licensed producer.

(3) The container of any milk which–

(a) is sold at a catering establishment for immediate consumption there, and

(b) is sold as one individual portion, and

(c) is intended as an accompaniment to another food,

need not be marked or labelled with any of the particulars specified in paragraph 1 of this Schedule except the particulars specified in paragraph 1(a) and (e).

(4) The container of any milk which is pre-packed for direct sale need not be marked or labelled with any of the particulars specified in paragraph 1 of this Schedule except the particulars specified in paragraph 1(a), (e) and (f) and, in the case of milk in relation to which the special designation "Untreated" is used, the address of the licensed producer.

Definitions

7. In this Schedule–

"catering establishment" means a restaurant, canteen, club, public house, school, hospital or other establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the ultimate consumer for immediate consumption;

"pre-packed for direct sale", in relation to milk, means put into containers on the premises where the milk is produced by the person owning or having control of the herd from which the milk is produced for sale by him on those premises or from a vehicle used by him; and

"ultimate consumer" means any person who buys otherwise than–

(a) for the purpose of resale,

(b) for the purposes of a catering establishment, or

(c) for the purposes of a manufacturing business.

(a) 1985 c.72.

SCHEDULE 7

Regulation 7(1)

FORMS OF LICENCES

FORM A

MILK (SPECIAL DESIGNATION) REGULATIONS 1989

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

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales acting jointly hereby authorise ..... 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 1989.

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 and the Secretary of State for Wales.

FORM B

MILK (SPECIAL DESIGNATION) REGULATIONS 1989

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 1989 and, unless suspended or revoked, will operate until .....

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

Proper Officer of the .....Council.

FORM C

MILK (SPECIAL DESIGNATION) REGULATIONS 1989

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 1989 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 1989

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 1989 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 1989

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 1989 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 1989

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

The ..... hereby authorise .....

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

† (i) obtained by the dealer pre-packed as(a) "Pasteurised"*(b) "Sterilised"*(c) "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 1989 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 8 Regulations 10, 11, 17 and 18

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–

(i) in the case of a licence relating to milk produced in England, a person appointed by the Minister from a panel of persons nominated jointly by the Milk Marketing Board and the National Farmers' Union, and

(ii) in the case of a licence relating to milk produced in Wales, a person appointed by the Minister from a panel of persons, each member of the panel being nominated either jointly by the Milk Marketing Board and the National Farmers' Union or jointly by the Milk Marketing Board and the Farmers' Union of Wales;

(c) one member shall be a person appointed by the Minister as being representative of the consumers' interest.

(2) Where the issue referred to the tribunal is in respect of a dealer's licence or an untreated milk distributor'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 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 an untreated milk distributor's licence, or where the issue referred to the tribunal is in respect of a dealer's licence or an untreated milk distributor'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 as being representative of the consumer's interest.

(4) For the purposes of sub-paragraphs (1)(c), (2)(c), and (3)(c) of this paragraph, where the issue is in respect of a licence relating to premises in England, such appointment shall be made after consultation with the Secretary of State for Health.

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–

(a) is incapacitated by infirmity of mind or body from discharging the duties of his office,

(b) has been adjudged bankrupt, or

(c) has made 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.

4. In this Part of this Schedule–

"the Minister" means–

(a) where the issue referred to the tribunal is in respect of a licence relating to premises in England, the Minister of Agriculture, Fisheries and Food;

(b) where the issue referred to the tribunal is in respect of a licence relating to premises in Wales, the Secretary of State.

PART II

PROCEDURE

1. Where in accordance with these Regulations any issue as to the revocation or suspension of a licence or refusal of a 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 45 of the Act, 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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations re-enact with modifications the Milk (Special Designation) Regulations 1988, and provide for the implementation of Council Directive 85/397/EEC (OJ No. L226, 24.8.1985, p. 13) on health and animal health problems affecting intra-Community trade in heat-treated milk.

The Regulations prescribe special designations ("Untreated", "Pasteurised", "Sterilised" and "Ultra Heat Treated") for use in relation to the sale of milk and provide for the grant, refusal, suspension and revocation of licences authorising such use.

In addition to drafting amendments, the Regulations make the following changes of substance:–

(a) the notice to be displayed on farm premises where untreated milk is sold for consumption on the premises is "Milk supplied in this establishment has not been heat treated and may therefore contain organisms harmful to health" (Schedule 2, paragraph A5);

(b) in relation to milk to which the designation "Untreated" is used, a sample taken in specified circumstances is required to satisfy a prescribed coliform test and a plate count test (Schedule 2, paragraph C3); in consequence, the methylene blue test prescribed by the 1988 Regulations has been omitted;

(c) a sample of pasteurised milk taken in specified circumstances is required to satisfy a plate count test and a phosphatase test; the requirement under the 1988 Regulations for such sample to satisfy a methylene blue test has been omitted (Schedule 4, Part I, paragraph A5(2) and (3));

(d) the requirement under the 1988 Regulations that an insulated container containing a sample of milk for transport to a testing laboratory shall not be artifically cooled, has been omitted (Schedule 5, Part I, paragraph 5);

(e) the incubation periods and temperatures for plated samples of pasteurised milk to be submitted to a plate count test have been specified (Schedule 5, Part III, paragraph 3);

(f) the words required to be stated on the label of a container of untreated milk, where the milk is sold before 1 September 1990, are "Raw Unpasteurised Milk" or "This milk has not been heat treated and may therefore contain organisms harmful to health" and, where the milk is sold after 31 August 1990, "This milk has not been heat treated and may therefore contain organisms harmful to health" (Schedule 6, paragraph 1(f)).

These Regulations apply only to England and Wales.

Information as to British Standards referred to in these Regulations can be obtained by post from the British Standards Institution at Milton Keynes or from any of the Institution's sales outlets.

£4.30 net

ISBN 0 11 098383 1

Printed in the United Kingdom for HMSO

845 WO0131 C15 1/90 452/3 4235 46378 895943M