EXPLANATORY NOTE

(This Note is not part of the Instrument, but is intended to indicate its general purport.)

The amending Rules approved by this Instrument are designed for the purpose of controlling midwives in their use of analgesics.

The first amendment of the existing Rules is intended to prevent a midwife from using an analgesic on her own responsibility unless she is proficient in the use of it.

The new provision added to the existing Rules introduces further safeguards where the analgesic administered is nitrous oxide and air.

MILK AND DAIRIES, SCOTLAND

The Milk (Special Designations) (Scotland) Amendment Order, 1949

1949 No. 1856 (S. 121)

Made - - - -	1*st October*, 1949
Laid before Parliament	3*rd October*, 1949
Coming into Operation	4*th October*, 1949

In exercise of the powers conferred on me by section 3 of the Milk and Dairies (Amendment) Act, 1922(**a**) as enacted in section 10 of the Milk Act, 1934(**b**) and by section 11 of the Milk (Special Designations) Act, 1949(**c**) and of all other powers enabling me in that behalf I hereby order as follows :—

PART I—*Citation and Interpretation*

1.—(1) This Order may be cited as the Milk (Special Designations) (Scotland) Amendment Order, 1949, and it and the Milk (Special Designations) Orders (Scotland), 1936 to 1944(**d**) shall be read as one and may be cited together as the Milk (Special Designations) (Scotland) Orders, 1936 to 1949.

(2) This Order shall come into operation on the fourth day of October, 1949.

2.—(1) In this Order—

"the principal Order" means the Milk (Special Designations) Order (Scotland), 1936, as amended by the Milk (Special Designations) Amendment Order (Scotland), 1937, the Milk (Special Designations) Amendment Order (Scotland), 1938, the Milk (Special Designations) Amendment Order (No. 2) (Scotland), 1938, the Milk (Special Designations) Amendment Order (Scotland), 1941, and the Milk (Special Designations) Amendment Order (Scotland), 1944(**d**).

(2) The Interpretation Act, 1889(**e**), applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(**a**) 12 & 13 Geo. 5. c. 54. (**b**) 24 & 25 Geo. 5. c. 51. (**c**) 12, 13 & 14 Geo. 6. c. 34.
(**d**) S.R. & O. 1936 (No. 687) I, p. 1832 ; 1937 (No. 212) p. 1722 ; 1938 (Nos. 183 and 1158) II, pp. 2173 and 2177 ; 1941 (No. 1336) I, p. 624 ; 1944 (No. 1258) I, p. 464.
(**e**) 52 & 53 Vict. c. 63.

PART II—*Amendment of Principal Order*

3. For Article 8 of the principal Order there shall be substituted the following Article :—

"8.—(1) Subject to the provisions of this Article the local authority, or the Secretary of State on appeal being made to him by virtue of the subsequent provisions of this Article, may suspend or revoke a licence on the ground of any breach of condition thereof, being a breach which is proved to the satisfaction of the local authority or the Secretary of State, as the case may be:

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

(2) Where a local authority propose to suspend or revoke a licence or to refuse to grant a licence—

(*a*) they shall serve on the person affected a notice informing him of their proposal and the reasons therefor and of his rights under the next succeeding sub-paragraph ;

(*b*) the person affected within seven days after the receipt of such notice may make representations to the local authority in regard thereto and may require the local authority to afford him an opportunity of being heard by the appropriate committee of the local authority and the local 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.

(3) If the local authority, after complying with the provisions of the last foregoing paragraph decide to suspend or revoke a licence or to refuse to grant a licence they shall notify the person affected of their decision and shall at the same time advise him, in writing, that he may appeal against the decision to the Secretary of State within seven days of receiving such notification and that person may appeal to the Secretary of State accordingly.

(4) A decision of the local authority to suspend or revoke a licence shall not have effect until seven 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.

(5) On any such appeal—

(*a*) the Secretary of State before making his decision shall by written notice afford to the appellant an opportunity of making representations within a period of fourteen days after the receipt by him of the notice ;

(*b*) any reference in this Order to anything being done to the satisfaction of the local authority shall be treated as if the reference were to that thing being done to the satisfaction of the Secretary of State ;

(*c*) the Secretary of State may, if he thinks fit, take into consideration any change of circumstances brought about since the date of the local authority's decision;

(*d*) the decision of the Secretary of State shall be final and the local authority shall comply therewith.

(6) Where, before the end of the period for which a licence was granted, the holder of that licence applies for a licence by way of 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 this Order, remain in force until his application is so determined.

(7) If, in any case in which the local authority have, in accordance with paragraph (2) of this Article, notified their proposal to suspend or revoke a licence, or, as the case may be, have notified their decision to suspend or revoke a licence in accordance with paragraph (3) of this Article, an application is made for the grant of a licence by way of renewal of the licence proposed to be suspended or revoked or, as the case may be, which has been suspended or revoked, and is refused—

(*a*) during the currency of a period within which the person affected may make representations in accordance with the provisions of the said paragraph (2) of this Article; or

(*b*) during the currency of a period within which an appeal may be made under the said paragraph (3) of this Article to the Secretary of State against the local authority's decision,

any such representations or appeal, as the case may be, made in accordance with the said paragraph (2) or, as the case may be, the said paragraph (3), shall be deemed to include representations or an appeal in respect of the local authority's refusal."

PART III—*Transitional Provisions*

4. Notwithstanding anything in this Order and without prejudice to section 38 of the Interpretation Act, 1889, any licence authorising the use of any of the special designations granted under the principal Order and in force immediately before this Order comes into operation shall continue in force and have effect as if it were a licence granted by the local authority under and subject to the provisions of the principal Order as amended by this Order for the period ending on 31st December, 1949.

5. Any decisions, proceedings in connection with appeals, and other things made, taken or done in relation to a licence before the first day of October, 1949, or pending at that date, shall continue and have effect as if they had been made, taken or done in accordance with the provisions of the Milk (Special Designations) (Scotland) Orders, 1936 to 1949.

Dated this first day of October, Nineteen hundred and forty-nine.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order amends the Milk (Special Designations) (Scotland) Orders, 1936 to 1944, as required by the Milk (Special Designations) Act, 1949. The chief amendment gives a dairyman a right to be heard in public by his local authority where the latter propose to revoke, suspend or refuse a licence to use a special designation (such as "Tuberculin Tested") in relation to milk sold by him.

MINISTERS OF THE CROWN (TRANSFER OF FUNCTIONS)

1. *Ethyl Chloride and Kitchen Waste*
2. *Food and Drugs (Scotland)*, p. 2569.
3. *Imperial Institute*, p. 2571.
4. *Timber*, p. 2573.

1. ETHYL CHLORIDE AND KITCHEN WASTE

The Transfer of Functions (Ethyl Chloride and Kitchen Waste) Order, 1949

1949 No. 355

Made - - - -	*4th March*, 1949
Laid before Parliament	*7th March*, 1949
Coming into Operation	*8th March*, 1949

At the Court at Buckingham Palace, the 4th day of March, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas it is provided by the Ministers of the Crown (Transfer of Functions) Act, 1946(a), that it shall be lawful for His Majesty by Order in Council to transfer to any Minister of the Crown any functions theretofore exercisable by another Minister of the Crown;

And Whereas by the Transfer of Functions (Various Commodities) Order, 1946(b), (hereinafter called "the Principal Order") there were transferred to the Board of Trade certain functions of the Minister of Supply under section two of the Ministry of Supply Act, 1939(c), as amended by any subsequent enactment, exercisable by that Minister immediately before the coming into operation of that Order in relation to articles of any description falling within the Schedule thereto (hereinafter called "the scheduled articles");

(a) 9 & 10 Geo. 6. c. 31. (b) S.R. & O. 1946 (No. 378) I, p. 1015.
(c) 2 & 3 Geo. 6. c. 38.