

S. I. No. 298 of 2003

European Communities (Dehydrated Preserved Milk) Regulations 2003.

I, Joe Walsh, Minister for Agriculture and Food, in exercise of the powers conferred on me by Section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purposes of giving effect to Directive 2001/114/EC of the European Parliament and of the Council of 20 December 2001¹, hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Dehydrated Preserved Milk) Regulations 2003 and shall come into operation on 17 July 2003.

2. (1) In these Regulations -

“Annex 1” means the Annex 1 to the Directive;

“authorised officer” means-

- (a) a person appointed in writing by the Minister under Regulation 6,
- (b) an authorised officer for the purposes of the Regulations of 2002 or
- (c) a person appointed under section 49 of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998);

“Directive” means Directive 2001/114/EC of the European Parliament and of the Council of 20 December 2001;

“Minister” means the Minister for Agriculture and Food;

“products” means partly and totally dehydrated milk products defined in Annex 1;

“Regulations of 2002” means the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations 2002 (S.I. No. 483 of 2002)

¹ O. J. No. L15, 17.1.2002, p.19.

“vehicle” means any form of transport conveyance including a trailer.

- (2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the meaning in these Regulations that it has in the Directive.
 - (3) A reference to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulation is intended and a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.
 - (4) Any reference in these Regulations to place on the market or to marketing includes a reference to advertise, barter, offer or expose for sale by wholesale or retail, or have in possession for sale by wholesale or retail and invite to buy, and cognate words shall be construed accordingly.
3. These Regulations apply to products referred to in Annex 1.
 4. The addition of vitamins to products is permitted in accordance with the Health (Nutrition Labelling for Foodstuffs) Regulations 1993 (S.I. No. 388 of 1993).
 5. (1) Subject to paragraph (2), products shall not be placed on the market after 17 July 2004 unless they comply with the Regulations of 2002 subject to Article 3 of the Directive.

(2) Products labelled before 17 July 2004 in conformity with the European Communities (Dehydrated Preserved Milk) Regulations 1980 to 1990 may continue to be placed on the market until stocks are exhausted.
 6. (1) The Minister may appoint any person he or she thinks fit to be an authorised officer for the purposes of these Regulations.

(2) An authorised officer shall be furnished with a warrant of his or her appointment as an authorised officer and when exercising any power conferred by these Regulations, shall, if requested by any person affected, produce the warrant, to that person for inspection.

7. (1) An authorised officer may at all reasonable times –

(a) enter any premises in which he or she has reasonable grounds for believing that products are being manufactured, held or kept for placement on the market, placed on the market or records pertaining to such activities are being retained, or

(b) stop and enter any vehicle in which he or she has reasonable grounds for believing that products are being transported or kept for placement on the market,

and : -

(i) inspect such premises or vehicle,

(ii) inspect and take copies of or extracts from any books, documents or other records which he or she finds in the course of the inspection,

(iii) examine and copy any data or data material (within the meaning in each case of the Data Protection Act, 1988) he or she finds there, extract information from any such data and take extracts from any such material,

(iv) carry out such examinations, tests and inspections, as he or she may think fit and remove from there any product for further examination, and

(v) take such samples, including samples of wrapping, packaging, labelling or advertising material as he or she may think fit.

(2) A person in charge of premises or a vehicle, shall-

(a) afford to an authorised officer such facilities and assistance as are reasonably necessary to enable the officer to perform his or her functions,

(b) produce to an authorised officer any books, documents or other records or

material that he or she may reasonably require,

(c) give to an authorised officer any information that he or she may reasonably require regarding-

- (i) any products on the premises or in the vehicle, or
- (ii) any book documents or other records or other material produced to him or her.

(3) A sample may be taken and dealt with in the manner prescribed under Regulation 16(3) of the Regulations of 2002.

(4) A person who obstructs or interferes with an authorised officer in the exercise of his or her powers under these Regulations or gives an authorised officer information which is false or misleading shall be guilty of an offence.

(5) A person who without reasonable excuse fails to comply with a request made by an authorised officer under these Regulations shall be guilty of an offence.

8.(1) Any person who contravenes a provision of these Regulations shall be guilty of an offence.

(2) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding €3,000 or six months imprisonment.

(3) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of a director, manager, secretary or other officer of the body corporate, the director, manager, secretary or other officer or any person purporting to act in such capacity shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

9. An offence under these Regulations may be prosecuted by the Minister or a person mentioned in Regulation 19(1) of the Regulations of 2002.
10. The following are revoked-
- (a) European Communities (Dehydrated Preserved Milk) Regulations 1980 (S.I. No. 152 of 1980),
 - (b) European Communities (Dehydrated Preserved Milk) Regulations 1987 (S.I. No. 68 of 1987), and
 - (c) European Communities (Dehydrated Preserved Milk) Regulations 1990 (S.I. No. 167 of 1990).
11. (1) An authorised officer appointed under the European Communities (Dehydrated Preserved Milk) Regulations 1980 to 1990 and holding office immediately before the commencement of these Regulations continues in office as if appointed under these Regulations.
- (2) Any prosecution initiated under the European Communities (Dehydrated Preserved Milk) Regulations 1980 to 1990 continues as though initiated under these Regulations.
12. These Regulations shall be deemed to be food legislation for the purposes of the Food Safety Authority of Ireland Act 1998 (No. 29 of 1998).

Given under my Official Seal,
2003

Joe Walsh
Minister for Agriculture and Food

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation)

The purpose of these regulations is to give legal effect to Directive 2001/114/EC of the European Parliament and of the Council, which prescribes, and harmonises within the European Union from 17 July 2003, standards for the composition and labelling of partly or totally dehydrated milk.

These Regulations should be read in conjunction with Directive 2001/114/EC.

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