

CAP 132AQ

MILK REGULATION

Empowering section

MILK REGULATION

(78 of 1999 s. 7)

(Cap 132, section 56)

[11 November 1960] *G.N.A. 132 of 1960*

(Originally G.N.A. 106 of 1960)

Part I PRELIMINARY

s 1 (Repealed 78 of 1999 s. 7)

s 2 (Repealed 78 of 1999 s. 7)

s 3 Interpretation

In this Regulation, unless the context otherwise requires- (78 of 1999 s. 7)

"bottling" (裝瓶) means, in relation to milk or any milk beverage, any method of inserting milk or a milk beverage into bottles or other kinds of containers for sale or for use in the making or preparation of food for sale; (L.N. 259 of 1977)

"business as a milk factory" (奶品廠業務) means a business described under section 14(2); (L.N. 101 of 1971; 78 of 1999 s. 7)

"container" (容器) includes any cover attached to a container;

"Director" (署長) means the Director of Food and Environmental Hygiene; (78 of 1999 s. 7)

"disease" (疾病) means any disease of a communicable nature;

"full licence" (正式牌照) means a licence granted under section 16; (L.N. 358 of 1998; 78 of 1999 s. 7)

"heat-treatment" (熱處理) means the processing of milk or any milk beverage by any of the methods described in Schedule 1; (L.N. 259 of 1977)

"licence" (牌照) means a full licence or a provisional licence; (L.N. 358 of 1998)

"licensee" (持牌人) means a person to whom a licence has been granted; (L.N. 358 of 1998)

"milk" (奶類) means cow's milk, buffalo's milk and goat's milk and also means cream and frozen or reconstituted milk and cream, but does not include separated milk,

dried milk or condensed milk;

"milk beverage" (奶類飲品) means any beverage resulting from combining liquid milk fat with other solids derived from milk whether exclusive of any food additive or otherwise; (L.N. 259 of 1977; L.N. 59 of 2010)

"processing" (加工處理) means, in relation to milk or any milk beverage, heat-treatment, bottling or storage for heat-treatment, and bottling for sale or for use in the making or preparation of food for sale; (L.N. 259 of 1977)

"provisional licence" (暫准牌照) means a licence granted under section 16A; (L.N. 358 of 1998; 78 of 1999 s. 7)

"reconstituted milk" (再造奶) means products resulting from the recombining with water of milk constituents, namely, milk fat and other solids derived from milk exclusive of any other substance, and includes the products resulting from the melting of frozen concentrated milk, and "to reconstitute milk" (再造奶) shall be construed accordingly; (L.N. 32 of 1967)

"sale" (售賣) includes to sell, offer or expose for sale or possess for the purpose of sale.

(78 of 1999 s. 7)

s 4 Amendment of Schedule 1

Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

The Secretary for Food and Health may from time to time, by notification published in the Gazette, amend Schedule 1.

(78 of 1999 s. 7; L.N. 106 of 2002; L.N. 130 of 2007)

Part II SALE OF MILK AND MILK BEVERAGES*

Note:

* (L.N. 259 of 1977)

s 5 Permits or licences to sell milk or milk beverage

(1) A person must not sell any milk or milk beverage for human consumption except under and in accordance with-

(a) the permission in writing of the Director granted under section 30 of the Food Business Regulation (Cap 132 sub. leg. X); or

(b) a composite food shop licence within the meaning of that Regulation.

(2) Despite subsection (1), no permit or licence is required for the sale in sealed containers of those brands of sterilized milk or sterilized milk beverage that are

approved by the Director, if the Director is satisfied that there is no danger to public health.

(L.N. 59 of 2010)

s 5A Restriction on sale, etc. of imported milk or milk beverage

(1) No person shall sell or advertise for sale, any milk or milk beverage imported into Hong Kong from a source of manufacture other than a source of manufacture which has been approved by the Director.

(2) For the purpose of this section, the Director shall not approve any source of manufacture of milk or milk beverage unless he is satisfied that heat-treatment is included in the process of manufacture of such milk or milk beverage.

(3) In any proceedings for an offence under subsection (1) alleging advertising for sale, it shall be a defence for a defendant to prove that he was at the time the offence is alleged to have occurred a person whose business it was to publish, or arrange for the publication of, advertisements and that he received the advertisement for publication in the ordinary course of that business.

(L.N. 144 of 1987; 78 of 1999 s. 7)

s 6 Prohibition of sale of milk or milk beverage in certain cases

(1) No person shall sell any milk or milk beverage for human consumption if-

(a) except in the case of imported frozen pasteurized whole milk, it has been heat-treated more than once; or

(b) it contains at any time before heat-treatment, more than 200000 bacteria per millilitre or any coliform bacteria in 1/1000th (0.001) of a millilitre; or (26 of 2012 s. 51)

(c) it contains at any time after heat-treatment by any of the methods of pasteurization described in Schedule 1 more than 30000 bacteria per millilitre or any coliform bacteria in 1/10th (0.1) of a millilitre; or (L.N. 144 of 1987; 26 of 2012 s. 51)

(d) it contains at any time after heat-treatment by any of the methods of sterilization described in Schedule 1 a colony count of 10 or more. (L.N. 101 of 1971; L.N. 144 of 1987)

(2) For the purposes of this section, milk or a milk beverage shall be deemed to be possessed for the purpose of sale notwithstanding that it is intended that such milk or such milk beverage shall be subjected to heat-treatment before sale. (78 of 1999 s.

7)

(G.N.A. 37 of 1962; L.N. 259 of 1977)

s 7 Milk or milk beverage to be heat-treated before sale

No person shall sell for human consumption any milk or any milk beverage which has not been heat-treated: (L.N. 259 of 1977)

Provided that nothing in this section shall be construed to prevent- (78 of 1999 s. 7)

(a) the sale-

- (i) of milk by wholesale to a milk factory; or
 - (ii) of milk which is to be used as an ingredient in any other article of food which requires cooking after the addition of the milk before it can be consumed; or
- (b) the possession for the purposes of sale of any such milk.

s 8 Ingredient not to be added to cream

No person shall sell for human consumption any cream to which an ingredient other than one specified in item 12 of the First Schedule to the Food and Drugs (Composition and Labelling) Regulations (Cap 132 sub. leg. W) has been added, and no such ingredient shall be added in an amount in excess of that permitted by that item.

(L.N. 347 of 1989)

s 9 Milk not to be sold except in approved containers

No person shall sell any milk for human consumption save in containers of a type approved by the Director:

Provided that the provisions of this section shall not apply to milk which is sold by wholesale to a milk factory.

(78 of 1999 s. 7)

s 10 (Repealed L.N. 32 of 1967)

s 11 As to beverages resembling, etc. milk

(1) No person shall sell for human consumption-

- (a) any milk beverage; (L.N. 259 of 1977)
- (b) any beverage which is described for the purpose of sale by any name, trade mark or trade description which includes the word "milk" or "cream" or the Chinese characters "奶" or "忌廉" or any word or character implying that such beverage is or contains milk or cream; or
- (c) any soya bean juice or coconut juice (except in whole coconuts) or any other beverage which resembles milk either in colour, taste, appearance or consistency,

unless it is contained in a container of a type approved by the Director. (L.N. 32 of 1967)

(2) The provisions of subsection (1) shall not apply to any beverage specified in that subsection which is sold for human consumption on premises in respect of which a licence has been granted by the Director under the Food Business Regulation (Cap 132 sub. leg. X) so long as such beverage is not sold under any description which is

false or misleading as to the true nature of its principal ingredients. (10 of 1986 s. 32(2))

(78 of 1999 s. 7)

s 12 Precautions against contamination of milk, etc.

Every person in possession for the purpose of sale of any milk or any of the beverages specified in section 11(1) shall take all reasonable and proper precautions to prevent infection or contamination thereof.

(78 of 1999 s. 7)

s 13 Milk or milk beverage to be kept below 10 degrees Celsius pending sale

(1) No person shall keep any milk or any milk beverage, except sterilized milk or a sterilized milk beverage in sealed containers, for the purpose of sale in any place the temperature of which exceeds 10 degrees Celsius.

(2) No person shall transport, or cause to be transported, for the purposes of his trade or business any milk or any milk beverage, except sterilized milk or a sterilized milk beverage in sealed containers, in such manner that the temperature of the milk or the milk beverage at any time during transport exceeds 10 degrees Celsius.

(G.N.A. 37 of 1962; L.N. 133 of 1970; L.N. 259 of 1977)

s 13A Transport of milk or milk beverage

(1) No person shall transport or cause to be transported, for the purpose of his trade or business, any milk or any milk beverage unless-

(a) in the case of milk or milk beverage which has not been heat-treated, such milk or milk beverage is contained in vessels, containers or receptacles of a type which is hygienically suitable for the transportation of such milk or milk beverage;

(b) in the course of transportation all reasonable and proper precautions are taken to prevent infection or contamination thereof; and

(c) the interior of the vehicle or conveyance used for or in connection with the transportation of such milk or milk beverage is kept in clean a condition at all times.

(2) Without lawful authority or lawful excuse no person shall open the vessel, container or receptacle containing any milk or milk beverage in the course of transportation.

(L.N. 347 of 1989)

Part III PROCESSING AND RECONSTITUTING MILK AND MILK BEVERAGES*

Note:

* (L.N. 259 of 1977)

s 14 Business of milk factory not to be carried out except by licence

(1) Save under and in accordance with a milk factory licence granted by the Director and in such premises as shall be specified in such licence, no person shall carry on a business as a milk factory.

(2) For the purpose of this section, a person carries on a business as a milk factory if he processes or reconstitutes any milk or milk beverage or causes any milk or milk beverage to be processed or reconstituted for the purpose of sale.

(3) This section does not apply where any milk or any milk beverage is processed or reconstituted on premises in relation to which a restaurant licence has been granted by the Director under the Food Business Regulation (Cap 132 sub. leg. X) and such milk or such milk beverage is for consumption on the licensed premises. (10 of 1986 s. 32(2))

(L.N. 101 of 1971; L.N. 259 of 1977; 78 of 1999 s. 7)

s 15 Application for licence

(1) Every application for any licence shall be made in writing, addressed to the Director, and shall be accompanied by 3 copies of a plan, as nearly as may be to scale, of the whole of that part of any premises in which the applicant intends to carry on any operation involving the processing or reconstituting of milk or any milk beverage, and such plan shall include particulars of the following- (L.N. 259 of 1977; L.N. 358 of 1998)

- (a) sanitary fittings and ablution facilities;
- (b) built in clothing lockers or cloakrooms, passage ways or open spaces (if any);
- (c) rooms or other spaces (if any) for the exclusive use of staff or employees;
- (d) all means of exit, entry and internal communication;
- (e) all windows or ducts providing ventilation or, where any mechanical means of ventilation is provided, such means;
- (f) the siting of all furniture and fittings of a substantial and permanent nature, including heat-treatment plant, cleansing, refrigeration or cooling equipment, sterilization machinery or storage and bottling equipment, and any fixed sideboards, washbasins, sinks, water tanks or other like articles;
- (g) means of refuse storage or disposal; and
- (h) the drainage system, including all inlets into the system.

(2) Every copy of such plan, or any modification thereof, which is approved by the Director shall be endorsed to that effect by the Director, and one copy shall be returned to the applicant and the remaining 2 copies shall be retained by the Director.
(78 of 1999 s. 7)

s 16 Full licence

(1) The Director may, on application made in respect of any premises, grant a full licence permitting the carrying on of a business as a milk factory where the applicant satisfies the Director that the following conditions have been satisfied in relation to the premises- (L.N. 358 of 1998)

- (a) the plan referred to in section 15 has been approved by the Director and that the premises conform thereto;
- (b) the means of ventilation which is provided, whether natural or mechanical or partly natural and partly mechanical, is sufficient in every part of the premises, other than a part exclusively used for storage, to safeguard the health in that respect of the maximum number of persons likely to be engaged therein at any one time;
- (c) sanitary fitments are provided to a standard not less than that required by regulation 5 of the Building (Standards of Sanitary Fitments, Plumbing, Drainage Works and Latrines) Regulations (Cap 123 sub. leg. I);
- (d) public mains water is laid on to the premises and a storage tank is provided for such water which is of sufficient size having regard to the daily quantity of water likely to be used upon the premises, and proof against access of dust and mosquitoes:
 - Provided that, where the Director is satisfied that public mains water cannot reasonably be laid on for all or any purposes, the Director may in his discretion approve such other water supply as, having regard to considerations of public health, he may consider adequate;
- (e) in every part of the premises in which any milk or any milk beverage is processed or reconstituted- (L.N. 59 of 2010)
 - (i) the floors are surfaced with smooth, light coloured and non-absorbent material;
 - (ii) the internal surfaces of the walls are surfaced with smooth and non-absorbent material up to a height of not less than 2 m and the junctions between the walls and floors are coved; and
 - (iii) the ceilings are impervious to dust; (L.N. 358 of 1998; L.N. 59 of 2010)
- (f) sufficient ablution facilities are provided for the use of persons employed therein and that such ablution facilities are conveniently situated having regard to the nature of the work of such persons;
- (g) sufficient and suitable cloakroom or locker

accommodation, situated otherwise than in a part of the premises in which any milk or any milk beverage is processed, reconstituted or stored, is provided for the outer garments and other personal effects of persons employed therein; (L.N. 358 of 1998)

(h) no fresh air intake to any ventilation pipe included in the soil drainage system of the premises is situated in any part of the premises in which milk or any milk beverage is processed or reconstituted, and every inlet into such system which is situated in any such part of the premises is trapped; (L.N. 358 of 1998)

(ha) no part of the premises in which milk or any milk beverage is processed, reconstituted or stored, contains a soil fitment or latrine fitment or communicates directly with a room or other place which contains a soil fitment or latrine fitment; (78 of 1999 s. 7)

(i) any plant or apparatus used for the heat-treatment of milk or any milk beverage is of a type approved by the Director; and (L.N. 358 of 1998)

(j) any requirements issued by the Director of Fire Services have been complied with. (L.N. 358 of 1998; 78 of 1999 s. 7)

(2) A full licence shall be valid for a period of 12 months from and including the date of its grant. (L.N. 358 of 1998)

(L.N. 259 of 1977)

s 16A Provisional licence

(1) The Director may, on application made in respect of any premises, grant a provisional licence permitting the carrying on of a business as a milk factory where the applicant satisfies the Director that the conditions mentioned in section 16(1)(b) to (j) have been satisfied in relation to the premises.

(2) The Director shall not consider an application for a provisional licence unless the applicant has applied to the Director for a full licence in respect of the same premises.

(3) Subject to subsection (6), a provisional licence shall be valid for a period of 6 months from and including the date of its grant.

(4) A provisional licence may be renewed on only one occasion at the absolute discretion of the Director.

(5) Subject to subsection (6), a provisional licence that is renewed under subsection (4) shall be valid for a period of 6 months from and including the date of its renewal or such lesser period as may be specified in the provisional licence.

(6) If a full licence is granted during the validity of a provisional licence, the provisional licence shall expire upon the grant of the full licence. The fee paid in respect of the provisional licence shall be refunded on a pro-rata basis by reference to the number of days of the remaining part of the validity period of the provisional licence. Any fraction of \$1 in the refund shall count as \$1.

(L.N. 358 of 1998; 78 of 1999 s. 7)

s 17 Restriction on alterations or additions to licensed premises

After the grant of any licence, no licensee shall, save with the permission in writing of the Director, cause or permit to be made in respect of the premises to which the licence relates- (L.N. 358 of 1998)

- (a) any alteration or addition which would result in a material deviation from the plan thereof approved under section 15; or
- (b) any material alteration in respect of any of the matters specified in section 15(1) as matters in respect of which particulars must be included in the plan delivered pursuant to the provisions of that subsection.

(78 of 1999 s. 7)

s 17A Transfer of licence

Save with the consent in writing of the Director, a person to whom a licence is granted under this Part shall not transfer his licence to any other person.

(L.N. 358 of 1998; 78 of 1999 s. 7)

s 18 Prohibition of possession of contaminated or adulterated milk or milk beverage by licensees under this Part

(1) No licensee under this Part shall distribute in the course of the business in respect of which such licence was granted, or shall have in his possession for the purpose of such distribution, any milk or any milk beverage which-

- (a) except in the case of imported frozen pasteurized whole milk, has been heat-treated more than once;
- (b) contains at any time before heat-treatment more than 200000 bacteria per millilitre or any coliform bacteria in 1/1000th (0.001) of a millilitre; (26 of 2012 s. 52)
- (c) after having been subjected to heat-treatment by any of methods of pasteurization described in Schedule 1 whether by him or any other person, contains at any time more than 30000 bacteria per millilitre or any coliform bacteria in 1/10th (0.1) of a millilitre; (L.N. 144 of 1987; 26 of 2012 s. 52)
- (d) after having been subjected to heat-treatment by any of the methods of sterilization described in Schedule 1 whether by him or any other person, has a colony count of 10 or more; or (L.N. 144 of 1987)
- (e) fails to comply with the standards of composition relating to milk or any milk beverage specified in the Food and Drugs (Composition and Labelling) Regulations (Cap 132 sub. leg. W). (L.N. 101 of 1971)

(2) For the purpose of this section any milk or any milk beverage found upon any premises to which a licence under this Part relates shall be deemed to be in the possession of the licensee for the purpose of distribution in the course of the business in respect of which such licence was issued. (78 of 1999 s. 7)

(G.N.A. 37 of 1962; L.N. 259 of 1977)

s 19 Requirements as to heat-treatment apparatus

(1) Every such licensee shall cause any plant or apparatus used by him for the heat-treatment of milk or any milk beverage to be equipped with one or more self-registering thermometer devices to indicate and record the temperature to which, and the length of time during which, the milk or the milk beverage has been heated and the temperature to which the milk or the milk beverage is subsequently cooled.

(2) No such licensee shall subject any milk or any milk beverage to heat-treatment unless the apparatus used therefor-

(a) is of a type approved by the Director;

(b) is thermostatically controlled; and

(c) save as otherwise permitted in writing by the Director, is provided with an automatic device to divert the flow of any milk or any milk beverage which has not been retained at the requisite temperature for the requisite period of time having regard to the method of heat-treatment used, from the flow of such milk or such milk beverage as has been retained at such temperature for such period of time.

(3) Every thermometer reading taken in pursuance of the provisions of subsection (1) shall be recorded and retained by the licensee for not less than 2 months, and shall be available for inspection at all reasonable times by any health officer or health inspector.

(L.N. 259 of 1977; 78 of 1999 s. 7)

s 20 Control of heat-treatment of milk or milk beverage from outside Hong Kong

Save with the permission in writing of the Director, no person shall subject any milk or milk beverage to heat-treatment other than milk or a milk beverage produced or reconstituted in Hong Kong.

(L.N. 259 of 1977; 10 of 1986 s. 32(2); 78 of 1999 s. 7)

s 21 Certain ingredients not to be used in the reconstitution of milk or milk beverage

(1) No person shall use for the purpose of reconstituting milk or any milk beverage-
(L.N. 259 of 1977)

(a) any butter, milk powder, concentrated milk or other ingredient unless the same has been obtained from a source approved by the Director;

(b) any water, except public mains water, unless the same has been obtained from a source approved by the Director; or

(c) any colouring matter which is not a permitted colouring

matter within the meaning of the Colouring Matter in Food Regulations (Cap 132 sub. leg. H).

(2) The Director may by notification published in the Gazette signify his approval of any source in respect of which approval is required by subsection (1).

(78 of 1999 s. 7)

s 21A Prohibition of use by licensee of milk other than from licensed dairies

No licensee under this Part shall process or cause to be processed any milk unless such milk is obtained from a dairy in relation to which a licence has been granted under the Dairies Regulations (Cap 139 sub. leg. D).

(L.N. 101 of 1971)

s 22 General cleanliness of premises and equipment

Every such licensee shall, at all times, cause all parts of the premises to which the licence relates, and all fittings and equipment therein, to be maintained in proper repair and in a clean condition and free from noxious matters, and shall cause the floor of every part of any premises which are used for the processing or reconstituting of milk or any milk beverage to be thoroughly cleansed with water not less than once in every 24 hours.

(L.N. 259 of 1977)

s 23 Construction and design of vessels or containers

No such licensee shall use, or cause to be used, in the course, or for the purpose, of processing, reconstituting or storing milk or any milk beverage any vessel or container unless such vessel or container is made of such material, and to such design, as the Director may approve.

(L.N. 259 of 1977; 78 of 1999 s. 7)

s 24 Sterilization of vessels and utensils

(1) No such licensee shall cause any vessel, container or utensil to be used in the processing, reconstitution, storage or distribution of milk or any milk beverage unless it has been thoroughly cleansed and subsequently sterilized with steam or clean boiling water, or by such other method as the Director may permit in writing either generally or in any particular case, since the last occasion upon which it was used or before it is first used, as the case may be.

(2) All parts of any heat-treatment machinery shall, at all times, be kept in a clean condition, and every part thereof which comes into contact with any milk or milk beverage during its heat-treatment shall, as often as may be necessary, be washed with clean water or a suitable detergent (in which case it shall be rinsed with clean water after it has been washed with the detergent), and then sterilized with steam or

boiling water or by such other method as the Director may permit in writing either generally or in any particular case.

(L.N. 259 of 1977; 78 of 1999 s. 7)

s 25 Utensils used in the processing of milk or milk beverage not to be used for drinking

No person shall drink, or suffer any other person to drink, out of any vessel, container or utensil used in the course of processing or reconstituting milk or any milk beverage.

(L.N. 259 of 1977)

s 26 Restriction on smoking

No person shall smoke, or suffer any other person to smoke, while engaged in processing or reconstituting milk or any milk beverage.

(L.N. 259 of 1977)

s 27 Milk or milk beverage processing establishments not to be used for dwelling purposes

No person shall use, or suffer any other person to use, for dwelling purposes any part of any premises in which milk or any milk beverage is processed or reconstituted.

(L.N. 259 of 1977)

s 28 Prevention of contamination of milk or milk beverage by contact with certain clothing

No person shall hang up or otherwise keep, or suffer any other person to hang up or otherwise keep, whether temporarily or permanently, any clothing, bedding or personal effects in any part of any premises in which milk or any milk beverage is processed or reconstituted.

(L.N. 259 of 1977)

s 29 Spitting

(1) In any premises in which milk or any milk beverage is processed or reconstituted-

- (a) no person shall spit in any part of the premises in which the milk or the milk beverage is processed or reconstituted;
- and
- (b) no person shall spit in any other part of the premises

except into a spittoon or other receptacle provided for the purpose.

(2) Where spittoons or receptacles are provided, the licensee shall cause each such spittoon or receptacle to contain a disinfectant fluid and to be cleansed, and the fluid renewed, not less than once in every 24 hours.

(3) Save with the permission in writing of the Director, every such licensee shall cause one or more notices, prohibiting spitting and written in English and Chinese, to be continuously displayed in a conspicuous manner in every part of the premises in which milk or any milk beverage is processed or reconstituted. (78 of 1999 s. 7)
(L.N. 259 of 1977)

s 30 Personal cleanliness

Every person who takes part in the processing, reconstituting or transportation of milk or any milk beverage shall while so engaged- (L.N. 259 of 1977; L.N. 347 of 1989)

- (a) keep all parts of his person and of his outer garments as clean as may be reasonably practicable; and
- (b) keep any open cut or abrasion on any exposed part of his person covered with a suitable waterproof dressing.

s 31 Prevention of vermin

(1) Save where exempted in writing by the Director, every such licensee shall cause every hollow space, crevice or other place in any premises used by him for processing or reconstituting milk or any milk beverage, which is likely to harbour vermin or to constitute a means of access for vermin, to be eliminated or sealed off. (78 of 1999 s. 7)

(2) No person shall place, or suffer to be placed or to remain placed, any furniture or equipment, other than such as may be moved without difficulty by one man, so near to any wall of any premises in which milk or any milk beverage is processed or reconstituted as to obstruct access to any part of such wall, or such furniture or equipment, for the purpose of the cleaning of the same.

(3) No person shall knowingly suffer the existence of any vermin in any part of any premises in which milk or any milk beverage is processed or reconstituted.

(L.N. 259 of 1977)

s 32 Yards, alleys, etc. not to be used for processing or reconstituting milk or milk beverage

No person shall use, or suffer to be used, any yard, alley, open space or roof top for processing, reconstituting or storing of milk or any milk beverage.

(L.N. 259 of 1977)

s 33 Cleansing of water tanks

(1) Every such licensee shall-

(a) cause the inside of every water tank or container provided for the storage of water on any premises used by him for processing or reconstituting milk or any milk beverage to be cleansed in the months of March, June, September and December in each year by scrubbing out the same with a solution of not less than fifty parts of chlorine in one million parts of water; and (L.N. 259 of 1977)

(b) cause the date upon which such cleaning was last carried out to be recorded in a conspicuous manner upon each such water tank or container.

(2) Without prejudice to the provisions of subsection (1), any health officer or health inspector may serve upon such licensee a notice requiring him to cause any such water tank or container to be cleansed in such manner and within such time as shall be specified in the notice. (78 of 1999 s. 7)

s 34 General precautions against contamination of milk or milk beverage

Without prejudice to anything contained in this Regulation, every such licensee shall take all reasonable and proper precautions in and in connection with processing and reconstituting of milk or any milk beverage, including the distribution or other handling thereof, to prevent contamination of the milk or the milk beverage.

(L.N. 259 of 1977; 78 of 1999 s. 7)

s 35 Restriction on employment of persons likely to spread disease

(1) No person suffering from a discharging wound or sore or from a discharge of the ear or from attacks of vomiting or diarrhoea or from a sore throat shall take any part in processing or reconstituting milk or any milk beverage:

Provided that a health officer may issue a certificate to any such person exempting him from the provisions of this subsection in any case in which such health officer is satisfied that no danger to the public health is involved.

(2) Any person who is employed or working in premises in which milk or any milk beverage is processed or reconstituted, shall, if so required in writing by a health officer, submit himself to medical examination at such time and at such place as such health officer may direct and, if after such medical examination, a health officer is satisfied that such person is suffering from any communicable disease, or is likely to communicate to any other person any communicable disease, such last mentioned health officer may notify such person in writing to that effect, and such person shall forthwith cease to work in such premises or in any other premises in which milk or any milk beverage is processed or reconstituted.

(3) A notice given under subsection (2) shall continue in force until it is cancelled by a further notice in writing by a health officer declaring such first mentioned notice to be cancelled.

(4) No person shall cause, or suffer or permit, any person, other than a person who

has been duly exempted from subsection (1), whom he knows or has reason to believe to be suffering from any of the complaints specified in that subsection to be employed or take part in processing or reconstituting milk or any milk beverage.
(5) No person shall cause, or suffer or permit, any person in respect of whom he knows or has reason to believe that a notice given under subsection (2) is in force to be employed or take part in processing or reconstituting milk or any milk beverage.

(L.N. 259 of 1977; 78 of 1999 s. 7)

s 36 Immunization of staff against certain diseases

(1) No person shall be employed or work in any part of any premises in which milk or any milk beverage is processed or reconstituted unless he has been immunized in accordance with such of the requirements of a notification under subsection (3) as apply to him.

(2) No such licensee shall employ in any premises used by him for processing or reconstituting milk or any milk beverage any person whom he knows or has reason to believe has not been immunized in accordance with the provisions of subsection (1) or of a notification under subsection (3). (L.N. 165 of 1978)

(3) The Director may from time to time by notification published in the Gazette require persons employed or working in premises in which milk or any milk beverage is processed or reconstituted to be immunized against such diseases as may be specified in such notification.

(L.N. 230 of 1982; 78 of 1999 s. 7)

Part IV MISCELLANEOUS

s 37 Prevention of supply of milk or milk beverage to the danger of public health

(1) If any health officer or veterinary officer is of the opinion that infectious or other disease is caused, or is likely to be caused, by the consumption of milk or any milk beverage derived from any particular source, premises or processing or reconstituting plant or that the public health is likely to be endangered by the act or default of any purveyor of milk or any milk beverage or his servants or agents, such health officer or such veterinary officer may, by notice in writing, direct that the supply, distribution or sale of such milk or such milk beverage shall be terminated or restricted for such period and subject to such conditions as may be specified in the direction. (L.N. 259 of 1977)

(2) Any person who considers himself aggrieved by any direction given under subsection (1) may, within 14 days after the giving of the same, appeal to the Municipal Services Appeals Board. (58 of 1990 s. 22; 78 of 1999 s. 7)

(3) In any case in which the Municipal Services Appeals Board is satisfied that the direction ought not to have been given, it may order the payment to the appellant by

way of compensation of such sum, if any, as having regard to all the circumstances it may consider just. (58 of 1990 s. 22; 78 of 1999 s. 7)

(4) Every such payment shall be made out of general revenue. (10 of 1986 s. 32(2))

s 38 Keeping of report books

(1) The Director may provide in any premises in which any business which involves the processing, reconstitution, sale or distribution of milk or any milk beverage is carried on a report book or form for the use of visiting health officers and health inspectors. (L.N. 259 of 1977; 78 of 1999 s. 7)

(2) Where any such book or form has been so provided, the licensee or proprietor, as the case may be, of the business shall, at all times, cause such book or form to be kept upon such premises and available for use by any such health officer or health inspector.

(3) No person shall destroy any such book or form or alter or obliterate any entry made therein.

s 39 Fees and duplicate licence

(1) (Repealed L.N. 358 of 1998)

(2) The fee for the grant or renewal of a full licence shall be the prescribed fee.

(2A) Subject to section 16A(6), the fee for the grant or renewal of a provisional licence shall be half of the prescribed fee for a full licence. (L.N. 358 of 1998)

(3) If the Director is satisfied that any licence granted to any person-

(a) has been lost, destroyed or accidentally defaced; or

(b) requires amendment,

the Director may, upon payment of the prescribed fee, issue to such person a duplicate of the licence or make the amendment, as the case may be.

(L.N. 155 of 1991; L.N. 72 of 1992; L.N. 349 of 1996; L.N. 358 of 1998; 78 of 1999 s. 7)

s 40 Offences and penalties

(1) A person commits an offence who-

(a) contravenes any of the provisions of section 5, 5A(1), 6, 7, 8, 9, 11(1), 12, 13, 13A, 14, 17, 18, 19, 20, 21(1), 21A, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33(1), 34, 35(1), (4) or (5), 36(1) or (2) or 38(2) or (3); (L.N. 101 of 1971; L.N. 144 of 1987; L.N. 347 of 1989)

(b) fails to comply with any of the requirements of a notice served upon him under the provisions of section 33(2);

(c) being a person employed or working in premises in which milk or any milk beverage is processed or reconstituted, fails-

(i) to submit himself to medical examination when required to do so under the provisions of section 35(2);

or

(ii) to cease to work in any such premises when

required to do so by the provisions of that subsection;
(L.N. 259 of 1977)

(d) fails to comply with any of the requirements of notification published in the Gazette under the provisions of section 36(3);

(e) fails to comply with any direction given under the provisions of section 37(1), unless the same has been varied or cancelled by the Municipal Services Appeals Board under the provisions of subsection (2) of that section; or (10 of 2005 s. 228)

(f) where any direction given under the provisions of section 37(1) has been varied by the Municipal Services Appeals Board under the provisions of subsection (2) of that section, fails to comply with such direction as so varied. (10 of 2005 s. 228)

(2) A person who is guilty of an offence under this Regulation shall be liable on summary conviction to a fine and imprisonment as follows and, where the offence is a continuing offence, to an additional fine as follows for each day during which it is proved to the satisfaction of the court that the offence has continued-

(a) in the case of an offence under section 5 or 14 a fine at level 5, imprisonment for 6 months and \$900 for each day as aforesaid; and

(b) in the case of any other offence mentioned in subsection (1) a fine at level 3, imprisonment for 3 months and \$300 for each day as aforesaid. (L.N. 177 of 1996)

(L.N. 165 of 1978; L.N. 298 of 1987; 78 of 1999 s. 7)

s 41 Name in which proceedings for offences may be brought

Without prejudice to the provisions of any other enactment relating to the prosecution of criminal offences and without prejudice to the powers of the Secretary for Justice in relation to such offences, prosecutions for an offence under any of the provisions of this Regulation may be brought in the name of the Director.

(L.N. 362 of 1997; 78 of 1999 s. 7)

Sched 1 METHODS OF HEAT-TREATMENT

[sections 3 & 4]
(78 of 1999 s. 7)

1. Pasteurization-

(a) by the "Holder Method", namely, by retaining milk or a milk beverage for not less than 30 minutes at a temperature of not less than 63 nor more than 66 °C and then immediately cooling it to a temperature of not more than 10 °C; or

(b) be the "High Temperature Short Time Method", namely, by retaining milk or a milk beverage for a period of not less than 15 seconds at a temperature of not less than 72 °C and

then immediately cooling it to a temperature of not more than 10 °C.

2. Sterilization-

(a) namely, by homogenizing the milk or the milk beverage by means of any process whereby the globules of butter fat in the milk or the milk beverage are broken up so as to remain suspended uniformly throughout the milk or the milk beverage which is then heated to and retained at a temperature of not less than 100 °C for a period of not less than 25 minutes in the same containers as such milk or such milk beverage is subsequently to be disposed of for human consumption; or

(b) the "Ultra High Temperature Method", namely by heating the milk or the milk beverage to a temperature of not less than 132 °C and retaining it at not less than that temperature for at least 1 second, and thereafter putting immediately into the sterilized containers in which it is to be supplied to the consumer, which 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 or the milk beverage from risk of contamination.

(L.N. 133 of 1970; L.N. 101 of 1971; L.N. 259 of 1977)

Sched 2 (Repealed L.N. 349 of 1996)