

**DAIRY PRODUCTS
(HYGIENE)
REGULATIONS 1995 -
GUIDANCE NOTES**

Guidance notes to be read in
conjunction with Food Safety Act
Code of Practice Number 18 on
Enforcement of the Dairy Products
(Hygiene) Regulations 1995 and the
Dairy Products (Hygiene) (Scotland)
Regulations 1995

**Ministry of Agriculture Fisheries and Food
Department of Health
Scottish Office
Welsh Office**

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**GUIDANCE NOTES TO BE READ IN CONJUNCTION WITH FOOD SAFETY ACT
CODE OF PRACTICE No 18 ON ENFORCEMENT OF THE DAIRY PRODUCTS
(HYGIENE) REGULATIONS 1995 AND THE DAIRY PRODUCTS (HYGIENE)
(SCOTLAND) REGULATIONS 1995**

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GUIDANCE NOTES

Introduction

1. These guidance notes are intended to supplement the Food Safety Act 1990 Code of Practice No 18 on enforcement of the Dairy Products (Hygiene) Regulations 1995 and the Dairy Products (Hygiene) (Scotland) Regulations 1995. They are intended to give practical advice on the approach to be followed by food authorities in enforcing various aspects of the Regulations. However these notes should not be regarded as providing a definitive legal interpretation of requirements.
2. Food authorities should have regard to the information contained in these notes which will be updated as necessary to take account of any decisions over interpretation that are made under the arrangements described in paragraphs 4 and 6 of the Code.
3. These guidance notes have been prepared to follow as far as possible the order of the Regulations and cross references to the Regulations and the Code are included where necessary.

Approval applications

4. Although there is no form indicated in the Code for establishments to use when applying for approval, LACOTS may devise one for use by food authorities on a voluntary basis. Authorities who are interested should contact LACOTS for information.

Imported milk and milk products

5. Regulation 22 of the Regulations specifies requirements for imports from Third Countries and EEA States. In the case of imports from Third countries, products have to be accompanied by certification (see EC Commission Decision 95/343 for models) and come from countries on the EC list (see Commission Decision 95/340), both with effect from 2 February 1996. In the meantime interim arrangements apply to heat treated products. Dairy Products (Import Conditions) Regulations will be issued shortly which will specify import requirements in detail. In the meantime MAFF or SOAFD can advise.

Schedules

6. Listed below is guidance on some of the provisions in the Schedules to the Regulations. Over the course of time it is expected that further guidance will be given to cover new situations or practices that are identified and which require clarification.

SCHEDULE 1

(CONDITIONS FOR REGISTRATION/LICENSING OF PRODUCTION HOLDINGS)

Part I

General Conditions of Hygiene

Animal Identification

7. In paragraph A1 the requirement applies to both milking and dry stock. Females close to parturition should also be kept in accordance with this requirement.

Milking Equipment Storage

8. In paragraph A3 there would be an exception for animals kept in stalls and milked directly into a milk line which was fitted permanently in that building. (For example a cowshed fitted with a milk pipeline). But otherwise milking animals and cats, dogs, vermin, birds etc. would be subject to this paragraph.

Pigs and Poultry

9. In paragraph A4 some large open span well ventilated building where pigs are housed at one end and milking animals at the other may be permitted providing no smell or contamination reaches the milking area.

Vermin Control

10. In paragraph A6 it should be noted that this also applies to infestation in adjacent buildings, feed stores etc. Appropriate measures should be in place to prevent birds etc. from entering milking areas and milk rooms even if these mean modifications to buildings.

Clean Clothes

11. In paragraph B1(a) (although recommended), clothes need not be waterproof as long as they are clean.

Illness

12. In paragraph B3 there is no requirement for annual medical certification to confirm this point.

Part II

Conditions for housing of animals

Design and construction

13. In paragraph 1 evidence of dirty animals, inadequate bedding, stale or foul air, overcrowding or physical damage such as swollen hocks would be regarded as unsatisfactory.

Bedding

14. In paragraph 2 it would be difficult to achieve a satisfactory standard of animal cleanliness in practice unless some bedding was used.

Disinfectants

15. In paragraph 3 outhouses refers to feed stores or isolation premises. Strong smelling or phenolic disinfectant liable to contaminate milk must not be used. Generally disinfectants should be regarded as acceptable provided they are suitable for use with foodstuffs and are used in accordance with the manufacturer's instructions.

Part III

Conditions for milking and handling, cooling and storage of raw milk

Structure of the premises

16. In paragraph A1(a) there should be no direct access between the milk storage room and animal housing.

Walls and flooring

17. In paragraph A1(b) normally good quality concrete for floors and good quality cement rendering on walls will be adequate. However in some areas painting cement rendering with a durable waterproof paint or fitting impervious sheeting may be required. Tiles or plastic sheeting would be satisfactory if properly installed and maintained. Wooden materials should be avoided but if they are fitted must be painted or sheeted to facilitate cleaning.

Ventilation and Lighting

18. In paragraph A1(d) natural lighting should be provided if at all possible and supplemented by sealed unit fluorescent strip lights if possible. Air bricks in external walls and/or mechanical ventilation may be necessary to avoid excessive condensation.

Water supply

19. In paragraph A1(e) if water other than potable water is used within the milking premises it is most important that it is prevented from splashing equipment (in order to avoid contamination of the milk). Only potable water should be available in the milk room/bulk tank room. If there is concern about the quality of water being used, the food authority should consider what action may be necessary to rectify matters.

Equipment cleaning

20. In paragraph B3 the requirement to rinse with potable water does not apply where the disinfectant is specifically designed not to be rinsed off after application, nor does it apply where disinfection is by steam. Adequate supplies of heated water should also be available. In England and Wales disinfectants may carry labelling indicating that they have been approved by MAFF (under the now disbanded scheme for approval of chemical agents at farm level) where old packaging is being used up.

Bulk tanks

21. In paragraph B4 it is intended that bulk milk tanks should be left to drain only when empty.

Moveable Bails

22. Under paragraph C2(c) frequent moves to a fresh area of pasture will be required and in wet conditions this could be every day to avoid accumulations of mud and dung occurring.

Feed Storage

23. Paragraph D1 should not prohibit the use of a feed loft above the milking area. However, the use of any type of feed which creates a dusty atmosphere in the premises during milking should be prohibited.

Part IV

Conditions for milking and filtering operations

Milking Conditions

24. In paragraph 1 it is possible that the feeding of dusty or strong smelling feeds, the use of dusty bedding materials close to the milking premises, and application of certain chemicals to animals might have an adverse effect on the milk. However feeding of animals during milking should generally be acceptable.

25. In paragraph 3 milk from infected cows cannot always be held back from bulk tanks before a physical abnormality in the milk has been detected, where modern direct line milking machines are used. However examination of fore-milk should identify most physical abnormalities and allow milk to be held back. Milk from cows identified as producing abnormal milk must be held back until the condition has cleared.

Udder Disease

26. Regarding paragraph 4 whilst milking diseased animals last is often good practice it may not always be practicable on all farms and so it will be necessary in many instances for separate milking equipment to be available to milk animals with udder disease.

Teat dips

27. Regarding paragraph 5, the requirement relates only to the relatively few teat dips/sprays which have not already been licensed by the Veterinary Medicines Directorate (VMD) under the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994. Authorities should be guided by the manufacturer's instructions as to whether the dips/spray could be safely used before milking. Dips used in accordance with the manufacturer's instructions should be regarded as acceptable.

Filter cloths

28. Regarding paragraph 6, permanent filters with metal or other non-material e.g. plastic elements and cleaned in place or disposable one trip filter cloths or sacks are acceptable. Washable filter cloths made of muslin or similar cloth are not acceptable.

SCHEDULE 2

(HYGIENE CONDITIONS FOR APPROVAL OF DAIRY ESTABLISHMENTS)

Part I

Potable Water

29. The requirement in paragraph 1(g) for a supply of potable water may be a problem for some processors e.g. on farms whose supplies may not, in all respects, meet the requirements of the Private Water Supplies Regulations 1991. DoE Circular 24/91 (Welsh Office Circular 68/91) gives guidance to local authorities on their duties under these regulations including action that should be taken to improve supplies. General queries on the Private Water Supplies Regulations in England may be sent to the Department of Environment, Water Services Division, Room A4/40, Romney House, 43 Marsham Street, London SW1P 3PY. In Wales queries should be sent to Welsh Office Environment Division, 2nd Floor, Cathays Park, Cardiff, CF1 3NQ. In Scotland, the relevant regulations are the Private Water Supplies (Scotland) Regulations 1992. Guidance to local authorities has been issued by the Scottish Office and general queries should be sent to Scottish Office Environmental Department, Engineering, Water and Waste Directorate, 27 Perth Street, Edinburgh, EH3 5RB.

Changing rooms

30. Under paragraph 1(h), a separate changing room will only be necessary where the size of the operation warrants it. For example, in a farm processing operation, facilities in a nearby farmhouse will suffice depending on the element of risk. Hand washing and toilet facilities do not have to be part of the changing facilities but will have to be reasonably accessible bearing in mind the scale and size of the establishment. Elbow operated taps or normal taps fitted with elbow-operated extensions are acceptable. Hand operated taps with an automatic cut off will also be acceptable.

Storage of detergents/other substances etc.

31. The requirement in paragraph 1(i) only relates to the storage of detergents, disinfectants and similar substances that may be hazardous. Substances may be stored in the same room as that in which raw materials and dairy products are stored or processed, provided there is no risk of contamination of those materials/products.

Working areas

32. The requirement in paragraph 2 (2) for separate working areas should be interpreted according to the nature of the operation. In most cases physical separation e.g. by walls, partitions, pipes etc. will be possible between different raw material/handling operations. However, in low risk operations separate work areas in one large room or time separation (between processes) would be acceptable.

Flooring

33. Flooring under paragraph 2 (3)(a) can be of any form provided it is waterproof. Suitable equipment should be available where residual water needs to be removed.

Walls

34. The requirement in paragraph 2 (3)(b) for walls to be covered with light coloured coating should be interpreted as meaning that any colour would be acceptable provided soiling can be identified. Coating can be of any form.

Washing facilities

35. The requirement in paragraph 2 (3)(g) for adequate hand washing facilities relates only to working areas. (It does not apply to storage or office areas). Such facilities do not need to be actually located in working areas (depending on perceived risk) but must be readily accessible e.g. in a nearby farmhouse.

Part II

Mechanical filling and automatic sealing

36. In paragraph A2, the requirement for equipment for mechanical filling and automatic sealing of containers applies only in the case of heat treated drinking milk and liquid milk-based products (i.e. cream (excluding clotted cream,) drinking yoghurt etc.) but not ice-crēam (or ice-cream liquid mixes). This requirement has been the reason for most applications for temporary derogations under Directive 92/47 (see paragraph 16 of the Code of Practice) and is a requirement from which a permanent derogation can be granted for low capacity establishments in respect of liquid products or limited production lines or limited production on the same line at different times (in the case of heat treated drinking milk) (see paragraphs 17 and 18 of the Code). The requirement does not apply to churns or tanks (which should be interpreted as including bag in the box packs) and any container with a capacity of over 4 litres.

Cooling equipment

37. Regarding paragraph A3, a record of thermometer calibration can be kept in any form e.g. written or on computer - provided that this can be made available for inspection by food authorities. Frequency of checking the accuracy of thermometers will depend on circumstances but operators should have evidence that thermometers are reliable. If there is doubt appropriate further checks may need to be made.

Reusable Containers

38. In paragraph A 4(b) the requirement for equipment to clean and disinfect reusable containers mechanically is a new one and may be difficult particularly for some smaller establishments to comply with. Food authorities should allow such businesses time to adjust to this requirement provided that the hygiene of operations is satisfactory. Where risks are low, manual cleaning methods could be allowed to continue. Where dairies obtain clean bottles from central units, mechanical bottle washing facilities should not normally be necessary assuming that the bottles received are not recontaminated before being filled at the dairy. Bottle washing and storage can take place in the same room where products are handled, but at different times or in a separate area - providing hygiene is not compromised.

Standardisation Equipment

39. The requirement in paragraph A5 for standardisation equipment and containers for storing standardised milk will only apply when an establishment produces standardised milk i.e. whole milk which has had its fat content adjusted as allowed under EC Regulation 1411/71, as amended.

Milk purification equipment

40. Regarding paragraph A 6 and Sections B and C filters or clarifiers are acceptable (as well as centrifuges) for removing impurities from milk.

Heat treatment equipment

41. The requirements in paragraph A 7(1)(a) should not be applied in the case of batch pasteurisers. Alternative heat treatment equipment is acceptable provided hygiene requirements are met and batch pasteurisers should therefore be allowed to be used as at present. Food authorities are not required to give written authorisation. Heat treatment is a critical control point under Regulation 13(1)(b) and operators will need to have means of monitoring its effectiveness. As an example it is recommended practice that all equipment for heat treating milk should be properly calibrated and that the temperature shown on the thermographs should match the temperature on a certified accurate indicating thermometer. Frequency of checks by operators will depend on use but operators should have evidence that equipment is functioning correctly and maintain records of thermographs. Failure by an operator to maintain control over heat treatment and corresponding records must be seen as serious matter. Where food authorities are concerned about efficacy of heat treatment equipment and/or occupiers' records they may need to undertake their own further checks.

Part III

Exclusion of Animals

42. Regarding paragraph A(1) "animal" should be interpreted to include birds, dogs and cats.

Equipment used for other products

43. Regarding paragraph A4 working areas, instruments and equipment could be used for work on other foodstuffs or other milk based products fit for human consumption but intended for non-food use at the discretion of the authorised officer.

Disinfectants

44. Regarding paragraph A12 disinfectants which are suitable for use with foodstuffs and used in accordance with the manufacturers' instructions should be regarded as acceptable.

SCHEDULE 3

(REQUIREMENTS FOR RAW MILK)

Part I

Animal Health

45. Regarding requirements in paragraph 1 producers are responsible for ensuring that these are met through private veterinary inspections at regular intervals (frequency dependent on circumstances). Such inspections can take place when a farmer's private veterinary surgeon is present for other purposes). Producers will need to keep evidence of such visits e.g. a receipt/invoice - and of any follow up action taken if problems occur - for checking by food authorities. Purchasers of raw milk (or processors) are also required to ensure e.g. through contracts that checks have been carried out to assess compliance with relevant animal health standards. Immediate problems which may affect the safety of milk will normally be notified to food authorities by private veterinary surgeons or (more rarely) the State Veterinary Service. Longer term issues arising from records could also be referred to food authorities. Where authorities suspect that requirements are not being complied with or that follow up action has not been taken they should raise the matter with the purchaser/processor or in the case of producer/retailers of raw milk with the producer direct and advise him to take appropriate advice e.g. from his private veterinary surgeon. Food authorities in England and Wales retain powers to impose Heat Treatment Orders under Regulations 18-20 of the Milk and Dairies (General) Regulations 1959 where necessary.

46. Requirements in paragraph 2(a) (tuberculosis and brucellosis in cows and buffaloes) and paragraph 2(c) (brucellosis in goats and sheep), are administered by Agriculture Departments. In cases where animals do not meet these requirements milk has to be treated if it is to be sold for human consumption and food authorities continue to be responsible for issuing heat treatment orders in such cases, in liaison with Agriculture Departments.

Part II

Added water

47. The prime responsibility for checking for added water rests with occupiers of establishments or first purchasers who may continue to use existing methods for doing this such as BS 3095. However food authorities (Trading Standards Officers in County Councils and the Isles of Scilly and Trading Standards Officers (or Environmental Health Officers if appropriate) in London, Metropolitan and Welsh authorities and Environmental Health Officers in Scotland) will need to check records kept by occupiers or first purchasers (including those relating to individual holdings where necessary) and also undertake spot checks where necessary to ensure that water is not being added to raw milk. In the case of milk delivered from several holdings spot checks need to be carried out on the holdings. If an initial check indicates that water may have been added, food authorities will need to take an authentic sample on the holding(s) representing the milk of one morning and/or evening's milking. If this shows that water is being added, they should consider appropriate action.

Antibiotic Residues

48. Paragraph 1 (b) requires raw milk (including raw goats and sheep milk) to comply with the limits for veterinary medicinal products including antibiotics specified in Annexes I and III of Council Regulation 2377/90 (as amended). The prime responsibility for testing for residues rests with occupiers of establishments/first purchasers. Food authorities (as indicated in paragraph 48 above) should note that the Commission is drawing up guidance on methods of analysis for the substances listed in that Regulation which is expected to be produced shortly. Food authorities will need to check records kept by occupiers/purchasers including those relating to individual holdings where necessary and undertake spot checks on milk as appropriate.

Other standards

49. In the case of the standards laid down in paragraph 2 for plate count and somatic cell count the Regulations specify a minimum frequency of sampling for the operator/purchaser. Food authorities need to ensure that operators/purchasers are carrying out the specified sampling programme except in the case of standards for plate count in paragraphs 2(d) and (e) (raw goats, ewes or buffaloes milk) which are very lax and where authorities may allow more infrequent sampling by operators than is specified provided they are satisfied with the previous standards being achieved. In respect of other standards, operators/purchasers need to draw up their own sampling programmes on risk analysis principles and perform random checks to satisfy themselves that the standards are being complied with. Authorities will need to check operators/purchasers records and only where they have concerns about test results would it be necessary to consider random checks to satisfy themselves that standards are being complied with. It is expected that LACOTS will issue separate guidance relating to sampling.

50. Paragraph 4 allows the somatic cell count standards to be checked either on milk collected from each holding or at the treatment or processing establishment until 1 July 1997. Until that date each purchaser will keep records of the counts of its milk intake either:

- (i) by testing milk from each holding on a random basis, or
- (ii) from a sample representing a day's intake.

In either case the Regulations state that there should be at least one sample per month.

From this data the dairy/purchaser will calculate a three month geometric mean. The dairy/purchaser will take steps to ensure that the somatic cell count of the milk it receives does not exceed the limits laid down and if these are exceeded it will go back to individual producers' records to see how it can segregate supplies in order to bring the average three monthly mean to acceptable levels. Records will be made available for inspection by EHOs. From 1 July 1997 dairies/purchasers will have to calculate the geometric mean on the basis of tests on milk from each holding and will have to resolve problems with individual producers during the following three month period of investigation.

51. Where food authorities find that after the three month period of investigation by operators/purchasers there are still ongoing problems in meeting the standards for somatic cell counts (or plate counts) they should take action e.g. to prevent sales only if subsequent investigation indicates that there is a potential danger to human health. In the period up to 1 July 1997 this should be noted particularly in the case of small scale processors who use milk obtained from only one source rather than from a number of sources and who may therefore have more difficulty with somatic cell count requirements.

52. In undertaking sampling food authorities should take account of provisions of the Food Safety (Sampling and Qualification) Regulations 1990 as well as of Code of Practice No. 7: Sampling for analysis or examination.

53. Regarding methods of analysis see comments under Schedule 11.

SCHEDULE 4

(REQUIREMENTS FOR DRINKING MILK)

54. The standards laid down apply to products after wrapping and before being removed from an establishment. Operators will need to carry out their own system of checks in accordance with Regulation 13 in order to demonstrate that their production meets the required standards. They will need to draw up sampling programmes bearing in mind the scale of the operation and the nature of the products being produced. Food authorities should encourage use of acceptable industry codes of practice (such as those prepared by the Dairy Industry Federation) or industry guides and other guidance.
55. Food authorities should check records of tests carried out by operators in respect of heat treatment, as well as for microbiological standards, added water, residues and may also carry out random sampling/spot checks as necessary on the basis of inspection ratings as laid down in statutory Code of Practice No. 9 where they are concerned about operators' test results or about the hygiene of the operation as a whole. Food authorities should follow the sampling plans laid down in the Schedule (i.e. n, c, m, M). If they need advice on substances that might be classed as pathogenic micro organisms they should contact their local food liaison groups or PHLs. It is not expected that food authorities should change their present pattern or level of sampling to a significant degree.
56. Food authorities should advise operators that where they encounter problems in meeting the standards, necessary remedial measures must be taken without delay. If an operator experiences problems involving a possible health risk, the food authority should investigate as necessary and if there is a potential danger to health arising from the operation as a whole take appropriate action (if necessary in accordance with statutory Code of Practice No. 16 on the enforcement of the Food Safety Act 1990 in relation to the food hazard warning system). In the case of a failure of heat treated drinking milk to meet the requirements for plate count at 21°C per ml after incubation, food authorities should only consider appropriate action if there has also been a failure of the requirements for coliforms (or possibly the phosphatase test) as the plate count at 21°C test is known to be unreliable. They should bear in mind particularly the need to ensure that heat treatment carried out by operators is effective.
57. In England and Wales the requirements in Part I paragraph 2 of the Schedule have been taken from previous cows milk legislation and extended to raw goats and sheep milk. The standards apply to raw cows milk sold at the farm gate or used for farmhouse catering or sold to a distributor and to raw goats and sheep milk sold to the ultimate consumer or to other outlets. ADAS continue to enforce standards relating to raw cows drinking milk on the farm premises. Food authorities remain responsible for enforcement of standards relating to raw goats and sheep milk. In Scotland the sale of raw cows milk for drinking continues to be prohibited and the sale of raw goats and sheep milk is only allowed as sales at the farm gate to the ultimate consumer. The standards in Part I paragraph 1 (of the Scottish Regulations) applying to raw goats and sheep milk are those that apply to raw cows milk in England and Wales.
58. Regarding sampling see comments under Schedule 3.
59. Regarding methods of analysis see comments under Schedule 11.

SCHEDULE 5

(REQUIREMENTS FOR MILK USED FOR THE MANUFACTURE OF MILK-BASED PRODUCTS)

60. In paragraph 1 acceptance of raw milk would be counted from the arrival of the milk at the processing area of a farm premises. Paragraph 2 allows temperatures and times specified for treatment of raw milk to be exceeded for "technological reasons". These reasons will include cases where higher temperatures may be essential to the manufacture of certain products e.g. cheeses and also instances over a weekend for example when establishments are unable to process their milk within the specified period. Written authorisation is not required from food authorities.

61. Establishments are required to keep records of data produced by recording thermometers in respect of manufacture of dairy products (see Regulation 13(1)(c)) for a period of 2 years (or for 2 months in the case of products which cannot be stored at ambient temperature) and food authorities should refer to these to check that treatment of milk has been carried out correctly. They should also check that temperature recording devices are properly calibrated (see comments on Schedule 2 Part II paragraph A 7(1)(a)).

SCHEDULE 6

(REQUIREMENTS FOR MILK-BASED PRODUCTS)

Part I

62. As under Schedule 4, the standards apply to products after wrapping and before removal from an establishment. Operators need to carry out their own system of checks in accordance with Regulation 13 to demonstrate that their production meets the required standards. They need to draw up a sampling programme bearing in mind the scale of the operation and the risk associated with the product. They should encourage use of acceptable industry codes of practice or guides. Food authorities should check records of tests carried out by operators and if they have concerns about the test results or about the hygiene of the operation as a whole, they may wish to carry out spot checks (as necessary) on the basis of inspection ratings as laid down in Code of Practice No. 9: Food Hygiene Inspections. Food authorities should follow the sampling plans laid down in the Schedule (i.e. n, c, m, M). If they need advice on substances that might be classed as pathogenic micro-organisms they should contact their local liaison group or PHLS. LACOTS is expected to issue some separate guidance on sampling.

63. Food authorities should advise operators that where they encounter problems in meeting standards, necessary remedial measures must be taken without delay. In cases where there is immediate danger to human health or recurring failures to meet standards for listeria and salmonella, operators should notify food authorities to discuss appropriate action, including withdrawal procedures. Food authorities should investigate as necessary and if there is a potential danger to human health arising from the operation as a whole take appropriate action, if necessary under statutory Code of Practice No. 16 (on enforcement of the Food Safety Act in relation to food hazard warning systems).

64. Food authorities should also advise operators of the guidelines for indicator organisms which should help them in ensuring proper operation of their establishments and in carrying out checks on their products (see Annex). It should be noted that as these are only guidelines certain products within the categories may not meet the standards mentioned.

Part II - VI

65. These requirements relating to heat treated cream made from cows milk and dairy ice cream made from cows, goats, ewes and buffaloes milk have been taken from previous legislation. They apply to any premises selling or handling heat treated cream and dairy ice cream, i.e. including retail premises such as ice cream vans. Heat treatment requirements for non dairy ice cream are covered in the Ice Cream (Heat Treatment) Regulations 1959 and the Ice Cream (Scotland) Regulations 1948 as amended.

66. Regarding sampling see comments under Schedule 3.

67. Regarding methods of analysis see comments under Schedule 11.

SCHEDULE 7

(STORAGE REQUIREMENTS)

68. Paragraphs 1 and 2 relate to storage conditions on a production holding which are part of registration conditions enforced by MAFF/WOAD (ADAS) in England and Wales. However, food authorities in England and Wales should liaise with ADAS particularly in cases where operators wish to derogate from temperature requirements for technological reasons since authorities need to agree this.

69. Temperatures in paragraphs 3 to 7 apply at treatment establishments. In addition the requirements at paragraphs 5 and 6 relate to storage at premises other than treatment establishments including storage/distribution depots, cash and carries, wholesalers etc. The requirement for storage temperatures to be registered could be met through records on a computer or in any other form bearing in mind the nature and scale of the operation.

SCHEDULE 8

(TRANSPORT REQUIREMENTS)

Part I

Temperature

70. In paragraph 2 (3) there is an exemption from the temperature requirement for pasteurised milk intended for doorstep deliveries. This exemption should be interpreted as applying to milk floats (or other small delivery vehicles) delivering pasteurised milk either entirely to households or principally to households but also small amounts to small retail outlets/corner shops or institutions e.g. schools.

Part II

Hygiene

71. These requirements do not apply to deliveries direct to consumers. Precise frequency for cleaning of tanks/containers in paragraph 3 will depend on the circumstances of the operation and its size. Food authorities may wish to undertake spot checks to ensure that adequate cleaning is taking place.

Part III

Commercial document

72. The requirement for certain products to be accompanied by a commercial document giving specified details applies only to products transported in bulk e.g. by tanker. It does not apply to deliveries direct to consumers. The document can be an invoice/advice note or any other document (in original or copy form). As indicated in paragraph 42 of the Code of Practice, during the period up to 1 January 1996, the health mark (or the approval number) on a commercial document may be the only way in which to identify whether a product comes from an approved establishment and can be traded (since health marking on packaging will not be compulsory during this period). As UK approval numbers indicate the approving authority by virtue of the LA prefix there are likely to be very few cases where information in paragraph 1(d) will need to be indicated.

73. Where a consignment is subsequently split into separate consignments, a copy of the commercial document will need to accompany each consignment. Requirements relating to retention of commercial documents in Regulation 11 are not applicable to retail outlets as they are outside the scope of the regulations.

SCHEDULE 9

(WRAPPING AND PACKAGING)

74. Wrapping and packaging may take place in the same room as processing, as long as there is no risk of contaminating the products. In addition designated areas within the same room for wrapping, packaging and storage will be acceptable particularly in the case of small scale establishments.

75. In paragraph 3(b) the requirement for wrapping and packaging to be brought to the establishment in a protective cover would not apply in the case of returnable glass bottles brought back to an establishment on milk floats (although such bottles would need to be stored so as to prevent contamination).

76. In paragraph 3(d) automatic assembly of packaging would include on line assembly of aseptic packaging. In some small scale establishments packaging is only assembled when brought into the packaging area and food authorities should allow this to continue provided that assembly is undertaken hygienically.

77. The requirement in paragraph 3(e) that staff may not handle both packaging and unwrapped products will be difficult for small scale establishments with only a few staff. In such cases staff should be allowed to continue with both activities provided food authorities are content that sufficient precautions are being taken to prevent contamination of products.

78. In paragraph 3(f) the requirement does not apply to products which undergo further processing after packaging i.e. blast chilling/blast freezing.

79. There is an exemption from the requirement in paragraph 4 for sealing of containers of certain products to be carried out automatically in the case of limited production of heat treated drinking milk (see paragraph 18 of Code for definition) provided that there is no risk to public health. In addition automatic sealing is not required for churns or tanks or containers of over 4 litres (see Schedule 2, Part II, paragraph 2).

(LABELLING AND HEALTH MARKING)

80. Directive 92/46 does not apply at retail level. It is not a requirement therefore for a product put on retail shelves or delivered to the ultimate consumer to carry the labelling or health mark information. The requirement for this information to be shown applies only up to the time the product arrives at a retail outlet as it is intended for control purposes - by food authorities - and not for the use of ultimate consumers. The Food Labelling Regulations 1984 (as amended) cover labelling at retail level.

Part I

81. In some areas in England and Wales it may be considered more appropriate and less burdensome on operators for these requirements to be enforced by Trading Standards departments. EHOs should liaise with Trading Standards colleagues to determine which is the most appropriate enforcement body locally. An important consideration should be to avoid, as far as possible, duplication of enforcement responsibility.

82. In paragraph 1 the lot mark or use by or best before date could be used to establish the date of heat treatment required under sub para. (b). There is an exemption from these requirements for reusable glass bottles. Note that in this paragraph and in paragraph 3, the labelling particulars need only be indicated on packaging (e.g. the outer box).

Part II

83. Paragraph 2 would mean that in the case of small portions e.g. triangles of cheese in a circular box, the health mark need only be applied to the box itself. Where this product was subsequently put in further packaging e.g. a larger cardboard box the health mark would also apply to that box. Reference to small packaged units is interpreted to mean products of 10 cm² or less in accordance with provisions in the Food Labelling Regulations 1984. Individual ice creams e.g. choc ices, cornettos would not need to be health marked.

84. In paragraph 3, it should be noted that packaging does not include crates, wheeled trolleys or plastic trays. Also if the packaging is of a shrink wrap type and the health mark on the wrapping is visible through the shrink wrap, it is not necessary for the packaging to be health marked.

85. In paragraph 4, "UK" would be acceptable instead of United Kingdom in option (b) when a product is sold in the UK market. Under option (c) the approval number can be placed outside the oval health mark provided there is a reference in the mark to the place where the number can be found e.g. "for approval number - see base".

86. In paragraph 5 the abbreviated form of health mark allowed for here would apply to small packages or bottles of 10 cm² or less.

87. It would be acceptable to place a health mark on any part of a product e.g. the base provided it is visible for inspection purposes. In the case of operations which arrange packaging centrally it would also be acceptable for a number of approval numbers to be pre-printed within a health mark and for the numbers that are not applicable to be deleted. Health marks can be of any size or produced in any form e.g. embossed provided they and the details they contain are indelible and legible.

SCHEDULE 11

(METHODS OF ANALYSIS)

88. Schedule 11 lays down the reference methods of analysis for the standards given in the Regulations. It can be seen that there are no reference methods for the peroxidase test or phosphatase test for non-bovine milks. This is because reference methods are not available. It is hoped that the Commission will elaborate methods in this area in the future. Where no reference methods have been laid down, internationally accepted methods should be used.

89. Occupiers and purchasers can continue to use other methods of analysis that are not internationally recognised for routine quality purposes. (For example the goat milk industry use the modified phosphatase test as published by D J Williams in 1986. "A modification to the Aschaffenburg and Mullen Alkaline Phosphatase Test suitable for Goats Milk, Australian Journal of Dairy Technology 41, 28*"). Food authorities may also use routine methods of analysis that are not internationally recognised. However any legal action taken by food authorities should be based on the results of reference methods laid down in Schedule 11 or other internationally accepted methods of analysis.

90. When undertaking analysis and testing of milk based products food authorities will wish to take account of IDF standard 122B: 1992 Milk and Milk Products method of preparation of samples and dilutions and IDF standard 50B:1985 Milk and Milk Products - method of sampling.

Indicator organisms: guidelines

Type of micro-organism	Product	Standard (ml/g)
- Coliforms 30°C	Liquid milk-based products	m = 0 M = 5 n = 5 c = 2
	Butter made from pasteurised milk or cream	m = 0 M = 10 n = 5 c = 2
	Soft cheese (made from heat-treated milk)	m = 10,000 M = 100,000 n = 5 c = 2
	Powdered milk-based products	m = 0 M = 10 n = 5 c = 2
	Frozen milk-based products (including ice-cream)	m = 10 M = 100 n = 5 c = 2
- Plate count 30°C	Frozen milk-based products (including ice-cream)	m = 100,000 M = 500,000 n = 5 c = 2