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WIJ WILLEM ALEXANDER,
BIJ DE GRATIE GODS,
KONING DER NEDERLANDEN,
PRINS VAN ORANJE-NASSAU,
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Decree of **TBE**

on the amendment of the Commodities Act Decree on the preparation and treatment of foodstuffs in relation to the modification of microbiological requirements on food and drink products and amendment of the Commodities Act Decree on hygiene of foodstuffs in relation to the amendment of the rules for raw milk and raw cream intended for direct human consumption

On the proposal of Our Minister for Health, Welfare and Sport, of..., reference number **TBE**;

Having regard to Articles 4(1), 5(1) and (6), 6, 8(1) and 32b of the Commodities Act;

After hearing the Advisory Division of the Council of State (Opinion of **enter opinion date Council of State**, No **enter opinion No**, Council of State);

Having regard to the detailed report of the Minister for Public Health, Welfare and Sport of **insert date of detailed report, insert reference number of detailed report**);

Have approved and hereby decree the following:

Article I

Article 4 of the Commodities Act Decree on the preparation and treatment of foodstuffs is amended as follows:

1. In paragraph 1(c), the words 'cultivable Staphylococcus aureus' are replaced by 'coagulase positive staphylococci (Staphylococcus aureus and other species)'.
2. Subsections (c) to (e) are renumbered to (d) to (f), and a subsection is inserted, which reads:
 - c. Shiga toxin producing E. coli (STEC) is not detectable in 25 g or ml;
3. Paragraph 3 now reads:
 3. Paragraph 1 shall also not apply to food and drink products that have not undergone germ-reducing treatment and are consumed under normal use only after the end-user has applied heating or other processing that reduces pathogenic micro-organisms to non-harmful quantities.

Article II

The Commodities Act Decree on the hygiene of foodstuffs is amended as follows:

A

In Article 2(5), 'raw cow's milk' is replaced by 'raw milk and raw cream' and 'Article 8' is replaced by 'Articles 8 and 8a'.

B

The title of paragraph 5 is replaced by the following:
§ 5. Raw milk and raw cream

C

Article 8 now reads:

Article 8

1. Raw milk and raw cream intended for direct human consumption shall only be supplied to the consumer or to the local retailers directly supplying to the consumer on the holding where these products were produced.
2. The operator of a holding where raw milk and raw cream is produced may supply those products to the consumer on-site:
 - a. if the raw milk and raw cream are delivered unrefrigerated: within two hours of production;
 - b. if the raw milk and raw cream are chilled to a temperature of not more than 4 °C immediately after production and are stored at that temperature until delivery: within 72 hours of production.
3. The operator referred to in paragraph 2 may deliver or dispatch raw milk and raw cream in a frozen state to the consumer locally:
 - a. if the raw milk and raw cream are frozen to a temperature of not more than - 18 °C within 24 hours of production and stored at that temperature until delivery or dispatch; and
 - b. if dispatch is carried out in such a way that the temperature of the product remains constant during transport or reaches a maximum of - 15 °C.
4. Paragraph 3 shall apply, mutatis mutandis, to the delivery or dispatch of raw milk and raw cream in a frozen state to the local retailers if these products are intended for direct delivery to the consumer.
5. Raw milk and raw cream intended for direct human consumption shall comply with:
 - a. the criteria set out in the Annex; and
 - b. the criteria referred to in Article 4(1) of the Commodities Act Decree on the preparation and treatment of foodstuffs.
6. The operator, referred to in paragraph 2, shall have raw milk examined at least twice a month for the total aerobic germ count at 30 °C.
7. The examination, referred to in paragraph 6, shall take place at the end of the storage period of the milk, but no later than 72 hours after production. This examination may take place sooner where it is plausible that the germ count will also meet the criterion set out in the Annex at the end of the storage period.

8. The operator, referred to in paragraph 2, shall have raw milk examined for Salmonella, Campylobacter and Shiga toxin producing E. coli (STEC) at least once a month. The frequency of this study may be halved if the results meet the criteria referred to in paragraph 5 for six months consecutively.

9. The operator shall keep the data of the investigations referred to in paragraphs 6 and 8 for two years and keep it at the disposal of the supervisor.

D

A paragraph is added to Article 8, reading as follows:

10. The operator, referred to in paragraph 2, carrying out an activity referred to in paragraph 1 shall report this to Our Minister. The notification is made by means of an electronic form made available by Our Minister. Our Minister shall provide the details of the notification to those responsible pursuant to Article 25a(1) of the Commodities Act for monitoring compliance with the rules laid down in this Article.

E

After Article 8, a new article is inserted, which should read as follows:

Article 8a

1. The operator, referred to in Article 8(2), shall ensure that containers with raw milk or raw cream intended for direct human consumption, with the exception of the milk tank, indicate the date and time of collection of the raw milk or raw cream.

2. The operator, referred to in Article 8(2), shall ensure that the packaging of raw milk and raw cream intended for direct human consumption or in the immediate vicinity of these products, if packaged only upon delivery, bears the following statement in a clearly legible manner:

a. in the case of raw milk or raw colostrum: RAW MILK/COLUSTRUM * USE ON DAY OF PURCHASE * DO NOT GIVE HARMFUL BACTERIA A CHANCE * COOKING BEFORE USE RECOMMENDED;

b. in the case of raw cream: RAW CREAM * USE ON DAY OF PURCHASE * DO NOT GIVE HARMFUL BACTERIA A CHANCE * COOKING BEFORE USE RECOMMENDED.

3. By way of derogation from paragraph 2, the indication 'USE ON DAY OF PURCHASE' shall not be mandatory if the packaging contains a date of minimum durability or final consumption date.

F

The Annex set out in the Annex to this Decree is added to the Commodities Act Decree on the hygiene of foodstuffs.

Article III

The following sections are added to section C-27 of the Annex to the Commodities Act Decree on administrative fines:

C-27.9	Article 2(5), in conjunction with Article 8(4)	EUR 525	EUR 1 050	X
C-27.10	Article 2(5), in conjunction with Article 8(5)	EUR 525	EUR 1 050	X
C-27.11	Article 2(5), in conjunction with Article 8(6)	EUR 525	EUR 1 050	X
C-27.12	Article 2(5), in conjunction with Article 8(7)	EUR 525	EUR 1 050	X
C-27.13	Article 2(5), in conjunction with Article 8(8)	EUR 525	EUR 1 050	X
C-27.14	Article 2(5), in conjunction with Article 8(9)	EUR 525	EUR 1 050	X
C-27.15	Article 2(5), in conjunction with Article 8(10)	EUR 525	EUR 1 050	X
C-27.16	Article 2(5), in conjunction with Article 8a(1)	EUR 525	EUR 1 050	X
C-27.17	Article 2(5), in conjunction with Article 8a(2)	EUR 525	EUR 1 050	X

Article IV

This Decree shall enter into force from **TBE** with the exception of Article II(D), which shall enter into force at a time to be determined by Royal Decree.

I hereby order this Decree, together with its associated explanatory memorandum, to be published in the Bulletin of Acts and Decrees.

The Minister of Health, Welfare and Sport,

DRAFT

Annex to Article II, Section C

Annex Criteria for raw milk

(Annex as referred to in Article 8(5)(a) of the Commodities Act Decree on hygiene of foodstuffs)

Parameter	Parameter value
Total aerobic germ count at 30 °C	≤ 25 000 per ml for raw milk of cows or buffalo
Total aerobic germ count at 30 °C	≤ 50 000 per ml for raw milk of camels, dromedaries, horses or donkeys
Total aerobic germ count at 30 °C	≤ 100 000 per ml for raw milk of goats, sheep or other animal species