

**Title: The Condensed Milk and Dried Milk (Wales) Regulations 2018**

**CONSULTATION SUMMARY PAGE**

<b>Date launched:</b>	<b>09 November 2017</b>	<b>Closing date:</b>	<b>21 December 2017</b>
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**Who will this consultation be of most interest to?**

Enforcement authorities, manufacturers, wholesalers and retailers of condensed milk and dried milk. The consultation may also be of interest to consumers and others who may have in interest in the policy and legislation on condensed milk and dried milk.

**What is the subject of this consultation?**

The draft Condensed Milk and Dried Milk (Wales) Regulations 2018 to consolidate the Condensed Milk and Dried Milk (Wales) Regulations 2003 (“the 2003 Regulations”) and the Condensed Milk and Dried Milk (Wales) (Amendment) Regulations 2008 (“the 2008 Regulations”). The draft Regulations will remove out-dated references to the Food Labelling Regulations 1996 (“FLR”) and introduce improvement notice provisions for non-compliance.

**What is the purpose of this consultation?**

To provide stakeholders with an opportunity to comment on the draft Regulations. The Regulations are based on the proposed preferred option of consolidating the 2003 and 2008 Regulations, and to remove out of date references to the FLR and introduce improvement notice provisions for non-compliance.

**Responses to this consultation should be sent to:**

**Andrew Dodd**

**Regulatory Policy Team  
Food Standards Agency in Wales**

**FOOD STANDARDS AGENCY**

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<b>Impact Assessment included?</b>	<b>Yes</b> <input type="checkbox"/>	<b>No</b> <input checked="" type="checkbox"/> <b>See Annex A for reason.</b>
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# The Condensed Milk and Dried Milk (Wales) Regulations 2018

## DETAIL OF CONSULTATION

Food Standards Agency in Wales (FSA) would welcome your comments on the draft Condensed Milk and Dried Milk (Wales) Regulations 2018 (see Annex B)

### Introduction

1. The purpose of the draft Regulations is to -
  - Consolidate the 2003 and 2008 regulations
  - Correct an out-dated reference to the FLR; and
  - Allow enforcement officers to issue improvement notices for non-compliance

### Proposals

The options being considered are:

1. Do nothing. Allow the 2003 and 2008 Regulations to remain in place with incorrect references to the FLR. This option may cause unintentional non-compliance by businesses making condensed milk and dried milk and cause confusion for local authorities enforcing the 2003 and 2008 Regulations.
2. Revoke and replace the 2003 and 2008 Regulations to update references to the FLR and take this opportunity to bring the condensed milk and dried milk regulations in line with other food composition and labelling regulations by introducing improvement notice provisions for non-compliance.

#### Key proposal(s):

- **Revoke and replace the 2003 and 2008 Regulations**
- **Remove references to the FLR**
- **Introduce improvement notices provisions for non-compliance.**

### Background

3. Currently domestic rules in this area are provided by the 2003 and 2008 Regulations. The 2003 and 2008 Regulations implement EU Directive 2001/114/EC and 2007/61/EC respectively. Directive 2001/114/EC lays down compositional standards relating to certain partly or wholly dehydrated preserved milk products intended for human consumption. Directive 2007/61/EC amends 2001/114/EC adjusting compositional standards relating to certain partly or wholly dehydrated preserved milk products intended for human consumption.
4. Currently, the 2003 Regulations refer to the labelling requirements of the FLR. However, FLR were revoked by the Food Information (Wales)

Regulations 2014 (FIR). The references to FLR in the 2003 Regulations therefore need to be removed.

5. The majority of references to FLR in other food-related regulations were removed by FIR in 2014. It was decided at the time not to use FIR to remove the reference to FLR from the 2003 Regulations. The rationale was that consultation was being undertaken by FSA Wales at that time in 2014 to make a separate SI to amend the 2003 Regulations, and it was intended to use those amendment Regulations to correct the references to FLR. In the event, those amendment Regulations were never made, effectively retaining the incorrect references to FLR in the 2003 Regulations.

## **Enforcement**

6. The SI provides an opportunity to bring the condensed milk and dried milk regulations in line with other food labelling and compositional Regulations by introducing improvement notice provisions for non-compliance.
7. Improvement notices would be used as part of the hierarchy of enforcement when informal measures are no longer appropriate and the contravention or issue should be elevated to formal enforcement action. If the conditions set by an improvement notice are not met then the non-compliance with those conditions will be a criminal offence. Businesses will have the opportunity to appeal against an improvement notice; appeals will be heard by the magistrates' court.

## **Consultation Process**

8. A six week consultation is being launched to provide interested parties with the opportunity to comment on these proposals. A full twelve week consultation is not deemed necessary in this case as the proposed amendment only consolidates current regulations, while also correcting a technical reference to FLR and introduces improvement notices which are already widely used food legislation.
9. We are particularly keen to hear from Small and Medium Enterprises (SMEs) on any likely impact and would encourage them to comment on all aspects of the proposal.
10. Any responses received at part of this consultation will be given careful consideration and a summary of the responses received will be published on our website within three months of publication of the regulation.

### **Questions asked in this consultation:**

**Q1: We are not conducting an Impact Assessment as we don't believe there will be an impact on businesses or local authorities. We would like to request that any businesses or local authorities who feel they may be impacted by the change in regulations please respond to the consultation.**

**Q2: Do you consider that the policy/Regulations will have an effect on opportunities for use of the Welsh language?**

**Q3: We would like to know your views on the effects that the Condensed Milk and Dried Milk (Wales) Regulations 2018 would have on the Welsh language,**

**specifically on:**

- i) opportunities for people to use Welsh and**
- ii) on treating the Welsh language no less favourably than English.**

**Q4: What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

## Other relevant documents

11. The partly or wholly dehydrated preserved milk for human consumption Directive 2001/114/EC can be found here <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32001L0114>.
12. The partly or wholly dehydrated preserved milk for human consumption Directive 2007/61/EC can be found here <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32007L0061>.

## Responses

13. **Responses are required by close 21 December 2017.** Please state, in your response, whether you are responding as a private individual or on behalf of an organisation/company (including details of any stakeholders your organisation represents).

Thank you on behalf of the Food Standards Agency for participating in this public consultation.

Yours,

**Andrew Dodd**  
**Regulatory Policy Team**  
**Food Standards Agency**

## Enclosed

**Annex A: Standard Consultation Information**

**Annex B: Draft Statutory Instrument**

**Annex C: List of interested parties**

## **Publication of personal data and confidentiality of responses**

1. In accordance with the FSA principle of openness we shall keep a copy of the completed consultation and responses, to be made available to the public on receipt of a request to the [FSA Consultation Coordinator](#) (020 7276 8308). The FSA will publish a summary of responses, which may include your full name. Disclosure of any other personal data would be made only upon request for the full consultation responses. If you do not want this information to be released, please complete and return the Publication of Personal Data form, which is on the website at <http://www.food.gov.uk/multimedia/worddocs/dataprotection.doc> Return of this form does not mean that we will treat your response to the consultation as confidential, just your personal data.
3. In accordance with the provisions of Freedom of Information Act 2000/Environmental Information Regulations 2004, all information contained in your response may be subject to publication or disclosure. If you consider that some of the information provided in your response should not be disclosed, you should indicate the information concerned, request that it is not disclosed and explain what harm you consider would result from disclosure. The final decision on whether the information should be withheld rests with the FSA. However, we will take into account your views when making this decision.
4. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

### **Further information**

5. A list of interested parties to whom this letter is being sent appears in Annex C. Please feel free to pass this document to any other interested parties, or send us their full contact details and we will arrange for a copy to be sent to them direct.
6. A Welsh version of the consultation package can be found at [www.food.gov.uk](http://www.food.gov.uk)
7. Please contact us if you require this consultation in an alternative format such as Braille or large print.
8. This consultation has been prepared in accordance with HM Government consultation principles<sup>1</sup>.

<sup>1</sup> <http://www.bis.gov.uk/policies/bre/consultation-guidance>

**2017 No. (W.)**

**FOOD, WALES**

**The Condensed Milk and Dried  
Milk (Wales) Regulations 2017**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which apply in relation to Wales, revoke and replace the Condensed Milk and Dried Milk (Wales) Regulations 2003 (S.I. 2003/3053 (W. 291)) and revoke the Condensed Milk and Dried Milk (Wales) (Amendment) Regulations 2008 (S.I. 2008/137 (W. 19)). They transpose Council Directive 2001/114/EC relating to certain partly or wholly dehydrated preserved milk for human consumption (OJ No L 15, 17.1.02, p 19).

Regulation 2 and Schedules 1 and 2 define condensed milk and dried milk products and the reserved descriptions that apply to them.

Regulation 3 prohibits the labelling with reserved descriptions of food other than the designated condensed and dried milk products to which they relate.

Regulation 4 sets out the labelling requirements for designated condensed and dried milk products.

Regulation 5 sets out the manner of marking or labelling the designated condensed and dried milk products with the particulars required by regulation 4. The marking and labelling requirements are in accordance with Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers (OJ No L 304, 22.11.11, p 18).

Regulation 6 and Schedule 3 apply certain provisions of the Food Safety Act 1990 (1990 c. 16) with modifications. This includes the application of section 10(1) (with modifications) and (2), enabling an improvement notice to be served to require compliance with regulations 3, 4 and 5. The provisions, as applied, make the failure to comply with an improvement notice an offence under section 10(2).

Regulation 7 imposes an obligation on food authorities to enforce these Regulations.

Regulation 8 revokes previous Regulations, as set out above.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.



**2017 No. (W.)**

**FOOD, WALES**

**The Condensed Milk and Dried  
Milk (Wales) Regulations 2017**

*Made* \*\*\*

*Laid before the National Assembly for Wales* \*\*\*

*Coming into force* \*\*\*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 6(4), 16(1)(e), 17(1) and (2), 26(1) and (3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup> and paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(2)</sup>.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for references to the European instruments, and the Annex to the European instrument, listed in regulation 2(4) to be construed as references to those instruments and that Annex as amended from time to time.

So far as these Regulations are made in exercise of powers under the Food Safety Act 1990, the Welsh

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- (1) 1990 c. 16. Section 16(1) was amended by paragraph 8 of Schedule 5 to the Food Standards Act 1999 (c. 28) (“the 1999 Act”). Section 17(1) and (2) was amended by paragraphs 8 and 12 of Schedule 5 to the 1999 Act and S.I. 2011/1043. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 48(1) was amended by paragraph 8 of Schedule 5 to the 1999 Act. Functions formerly exercisable by “the Ministers” so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act, and subsequently transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (2) 1972 c. 68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51) and was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7) and S.I. 2007/1388.

Ministers have had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A)(1) of that Act.

There has been open and transparent public consultation during the preparation and evaluation of these Regulations as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(2).

### **Title, application and commencement**

1.—(1) The title of these Regulations is the Condensed Milk and Dried Milk (Wales) Regulations 2017.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on XX.

### **Interpretation**

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990;

“designated product” (“*XX*”) means any product specified in the third column of the table in Schedule 1 (as read with the Notes to that Schedule) ready for delivery to a final consumer or to a mass caterer;

“partly dehydrated milk” (“*XX*”) means the liquid product, whether or not sweetened, obtained by the partial removal of water from milk, wholly or partly skimmed milk or a mixture of these products and includes such a product to which cream or totally dehydrated milk (or both) has been added, provided that the addition of totally dehydrated milk does not exceed, in the finished product, 25% of total milk solids;

“reserved description” (“*XX*”), as respects any designated product, means any description specified in relation to that product in the first column of the table in Schedule 1 or any alternative description permitted by Schedule 2;

“sell” (“*XX*”) includes offer or expose for sale or have in possession for sale;

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(1) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(2) OJ No L 31, 1.2.2002, p 1, last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 27.6.2014, p 1).

“totally dehydrated milk” (“XX”) means the solid product, where the water content does not exceed 5% by weight of the finished product, obtained by removal of water from milk, wholly or partly skimmed milk, cream or a mixture of those products;

“total milk solids” (“XX”) means all the constituents of milk other than water, including milk fat, the constituents other than milk fat being present in their natural proportions;

“Welsh equivalent reserved description” (“XX”), as respects any designated product, means the Welsh language description in relation to that product specified in the second column of the table in Schedule 1 or the Welsh language equivalent specified in Schedule 2 of any alternative description permitted by that Schedule.

(2) In this regulation, “final consumer” (“XX”) means any person who buys otherwise than for—

- (a) resale;
- (b) a mass caterer;
- (c) a manufacturing business.

(3) In this regulation, “mass caterer” (“XX”) means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the final consumer and is ready for consumption without further preparation and, for the purposes of this definition, “preparation” (“XX”) includes manufacture and any form of processing or treatment.

(4) In these Regulations, references to the following European instruments and Annex are references to those instruments and that Annex as amended from time to time—

- (a) Regulation (EC) No 1333/2008 of the European Parliament and of the Council on food additives<sup>(1)</sup>;
- (b) Regulation (EC) No 1925/2006 of the European Parliament and of the Council on the addition of vitamins and minerals and of certain other substances to foods<sup>(2)</sup>;
- (c) First Commission Directive 79/1067/EEC laying down Community methods of analysis for testing certain partly or wholly dehydrated preserved milk for human consumption<sup>(3)</sup>;

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(1) OJ No L 354, 31.12.08, p 16, last amended by Commission Regulation (EU) 2017/874 (OJ No L 134, 23.5.17, p 18).

(2) OJ No L 404, 30.12.06, p 26, last amended by Commission Regulation (EU) 2017/1203 (OJ No L 173, 6.7.17, p 9).

(3) OJ No L 327, 24.12.79, p 29.

- (d) the Annex to First Commission Directive 87/524/EEC laying down Community methods of sampling for chemical analysis for the monitoring of preserved milk products<sup>(1)</sup>.

### **Reserved descriptions**

3. No person may sell any food with a label, whether or not attached to or printed on the wrapper or container, which bears, comprises or includes any reserved description or Welsh equivalent reserved description, or an equivalent description in any other language, a derivative of such description, or a substantially similar word or description unless—

- (a) such food is the designated product to which the reserved description, Welsh equivalent reserved description or equivalent description in any other language, relates;
- (b) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that the substance to which it relates is only an ingredient of that food; or
- (c) such description, derivative or word is used in such a context as to indicate explicitly or by clear implication that such food is not and does not contain a designated product.

### **Labelling and description**

4.—(1) No person may sell any designated product unless it is marked or labelled with the following particulars—

- (a) its reserved description,
- (b) except in the case of the products specified in paragraphs 1(d) and (g) and 2(d) in the table in Schedule 1, the percentage of milk fat, expressed by weight in relation to the finished product,
- (c) in the case of the products specified in paragraph 1 in the table in Schedule 1, the percentage of fat-free dried milk extract, and
- (d) in the case of the products specified in paragraph 2 in the table in Schedule 1—
  - (i) the recommendations as to the method of dilution or reconstitution and the details of the fat content of the product when diluted or reconstituted, and
  - (ii) a statement that the product is “not intended as a food for infants under 12 months”.

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(1) OJ No L 306, 28.10.87, p 24.

(2) Nothing in paragraph (1)(a) prevents the use of the Welsh equivalent reserved description or equivalent description in any other language in addition to the reserved description.

(3) Nothing in paragraph (1)(d)(ii) prevents the use of the words “XX”, or equivalent words in any other language, in addition to “not intended as a food for infants under 12 months”.

### **Manner of marking or labelling**

5.—(1) The particulars with which a designated product is required to be marked or labelled by virtue of regulation 4(1)(b) or (c) (or both) must appear near the trade name of the product.

(2) Where designated products weighing less than 20 grams per unit are packed in an outer packaging, the particulars required by regulation 4(1)(b) to (d) may appear on the label or the outer packaging.

### **Application and modification of provisions of the Act**

6. Section 10(1) and (2) of the Act (improvement notices) applies for the purposes of these Regulations with the modification (in the case of section 10(1)) set out in Part 1 of Schedule 3 for the purposes of—

- (a) enabling an improvement notice to be served on a person requiring that person to comply with any of the provisions of regulations 3, 4 or 5; and
- (b) making the failure to comply with a notice referred to in sub-paragraph (a) an offence.

(2) The provisions of the Act specified in the first column of the table in Part 2 of Schedule 3 apply, with the modifications specified in column 2 of that table, for the purposes of these Regulations.

(3) Paragraphs (1) and (2) are without prejudice to the application of the Act to these Regulations for purposes other than those specified in paragraph (1).

### **Enforcement**

7. It is the duty of each food authority to enforce these Regulations in its area.

### **Revocations**

8. The following Regulations are revoked—

- (a) the Condensed Milk and Dried Milk (Wales) Regulations 2003(1);

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(1) S.I. 2003/3053 (W. 291).

(b) the Condensed Milk and Dried Milk (Wales)  
(Amendment) Regulations 2008<sup>(1)</sup>.

*Name*

Minister for Social Services and Public Health under  
authority of the Cabinet Secretary for Health, Well-  
being and Sport, one of the Welsh Ministers

Date

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<sup>(1)</sup> S.I. 2008/137 (W. 19).

SCHEDULE 1 Regulation 2(1)

Partly or totally dehydrated preserved  
milk products and their reserved  
description

<i>Reserved description</i>	<i>Welsh equivalent reserved description</i>	<i>Designated product</i>
<b>1. Partly dehydrated milk</b>		
<i>Types of unsweetened condensed milk</i>		
(a) Condensed high-fat milk	XX	Partly dehydrated milk containing, by weight, not less than 15% fat and not less than 26.5% total milk solids
(b) Condensed milk	XX	Partly dehydrated milk containing, by weight, not less than 7.5% fat and not less than 25% total milk solids
(c) Condensed partly skimmed milk	XX	Partly dehydrated milk containing, by weight, not less than 1% and less than 7.5% fat and not less than 20% total milk solids
(d) Condensed skimmed milk	XX	Partly dehydrated milk containing, by weight, not more than 1% fat and not less than 20% total milk solids
<i>Types of sweetened condensed milk</i>		
(e) Sweetened	XX	Partly

condensed milk

dehydrated milk with an admixture of sucrose (semi-white sugar, white sugar or extra-white sugar) and containing, by weight, not less than 8% fat and not less than 28% total milk solids

(f) Sweetened condensed partly skimmed milk XX

Partly dehydrated milk with an admixture of sucrose (semi-white sugar, white sugar or extra-white sugar) and containing, by weight, not less than 1% and less than 8% fat and not less than 24% total milk solids

(g) Sweetened condensed skimmed milk XX

Partly dehydrated milk with an admixture of sucrose (semi-white sugar, white sugar or extra-white sugar) and containing, by weight, not more than 1% fat and not less than 24% total milk solids

**2. Totally dehydrated milk**

(a) Dried high-fat milk or high-fat milk powder XX

Totally dehydrated milk containing, by weight, not less than 42% fat

(b) Dried whole milk or whole milk powder XX

Totally dehydrated milk containing, by weight, not less



		than 26% and less than 42% fat
(c) Dried partly skimmed milk or partly skimmed milk powder	XX	Totally dehydrated milk containing, by weight, more than 1.5% and less than 26% fat
(d) Dried skimmed milk or skimmed milk powder	XX	Totally dehydrated milk containing, by weight, not more than 1.5% fat

## Notes

1. Any designated product may contain—

- (a) any substance permitted pursuant to Regulation (EC) No 1333/2008 of the European Parliament and of the Council<sup>(1)</sup>; and
- (b) vitamins and minerals in accordance with the requirements of Regulation (EC) No 1925/2006<sup>(2)</sup>.

2. An additional quantity of lactose, not greater than 0.03% by weight of the finished product, may be added in the manufacture of any designated product referred to in paragraph 1(e), (f) or (g) in the table in this Schedule.

3. Without prejudice to Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin<sup>(3)</sup>, the preservation of the designated products must be achieved—

- (a) by heat treatment for the products referred to in paragraph 1(a) to (d) in the table in this Schedule;
- (b) by the addition of sucrose for the products referred to in paragraph 1(e) to (g) in the table in this Schedule; and
- (c) by dehydration for the products referred to in paragraph 2(a) to (d) in the table in this Schedule.

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(1) OJ No L 354, 31.12.08, p 16, last amended by Commission Regulation (EU) 2017/874 (OJ No L 134, 23.5.17, p 18).  
(2) OJ No L 404, 30.12.06, p 26, last amended by Commission Regulation (EU) 2017/1203 (OJ No L 173, 6.7.17, p 9).  
(3) OJ No L 139, 30.4.04, p 55, last amended by Commission Regulation (EU) 2016/355 (OJ No L 67, 12.3.16, p 22).

4.—(1) Without prejudice to the compositional requirements set out in the table in this Schedule, the protein content of milk may be adjusted to a minimum content of 34% by weight (expressed on fat-free dry matter) by the addition or withdrawal (or both) of milk constituents in such a way as not to alter the ratio of whey protein to casein in the milk being adjusted.

(2) Authorised raw materials for protein adjustment purposes referred to in paragraph (1) are as follows—

- (a) milk retentate, which is the product obtained by concentrating milk protein by ultrafiltration of milk, partly skimmed milk or skimmed milk;
- (b) milk permeate, which is the product obtained by removing milk proteins and milk fat from milk, partly skimmed milk or skimmed milk by ultrafiltration; and
- (c) lactose, which is a natural constituent of milk normally obtained from whey with an anhydrous lactose content of not less than 99.0% m/m (mass over mass) on a dry basis, and which may be anhydrous or contain one molecule of water of crystallisation or be a mixture of both forms.

5. The levels of dry matter, moisture content, fat, sucrose, lactic acid and lactates and phosphatase activity in the designated products must be determined in accordance with the methods set out in First Commission Directive 79/1067/EEC(1).

## SCHEDULE 2 Regulation 2(1)

### Permitted alternative descriptions to the reserved descriptions specified in Schedule 1

1.—(1) The term “evaporated milk” may be used instead of the term “condensed milk” in the case of partly dehydrated milk containing, by weight, at least 9% fat and 31% total milk solids.

(2) The Welsh equivalent of “evaporated milk” is “XX”.

2.—(1) The term “evaporated semi-skimmed milk” may be used instead of the term “condensed partly skimmed milk” in the case of partly dehydrated milk containing, by weight, between 4% and 4.5% fat and not less than 24% total milk solids.

(2) The Welsh equivalent of “evaporated semi-skimmed milk” is “XX”.

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(1) OJ No L 327, 24.12.79, p 29.

3.—(1) The term “semi-skimmed milk powder” or “dried semi-skimmed milk” may be used instead of the term “dried partly skimmed milk” or “partly skimmed milk powder” in the case of totally dehydrated milk with a fat content of between 14% and 16%.

(2) The Welsh equivalent of—

- (a) “semi-skimmed milk powder” is “XX”, and
- (b) “dried semi-skimmed milk” is “XX”.

## SCHEDULE 3 Regulation 6

### Application and modification of provisions of the Act

#### PART 1

##### Modification of section 10(1)

1. For section 10(1) of the Act (improvement notices) substitute—

“If an authorised officer has reasonable grounds for believing that a person is failing to comply with any of regulations 3, 4 or 5 of the Condensed Milk and Dried Milk (Wales) Regulations 2017, the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)—

- (a) state the officer’s grounds for believing that the person is failing to comply with the relevant provisions;
- (b) specify the matters which constitute the person’s failure so to comply;
- (c) specify the measures which, in the officer’s opinion, the person must take in order to secure compliance; and
- (d) require the person to take measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.”

#### PART 2

##### Application and modification of other provisions of the Act

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 2 (extended meaning of “sale” etc.)	In subsection (1), for “this Act” substitute “the Condensed Milk

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Modifications</i>
	and Dried Milk (Wales) Regulations 2017”. In subsection (2), for “This Act” substitute “The Condensed Milk and Dried Milk (Wales) Regulations 2017”.
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2017”.
Section 20 (offences due to fault of another person)	For “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (Wales) Regulations 2017”.
Section 21(1) and (5) (defence of due diligence)	In subsection (1), for “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (Wales) Regulations 2017”.
Section 29 (procurement of samples)	After the words “enforcement authority”, insert “, when carrying out duties under this section in relation to the Condensed Milk and Dried Milk (Wales) Regulations 2017, must exercise and perform those duties in accordance with the

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Modifications</i>
Section 30(8) (analysis etc. of samples)	methods described in the Annex to First Commission Directive 87/524/EEC laying down Community methods of sampling for chemical analysis for the monitoring of preserved milk products <sup>(1)</sup> and”. For “this Act” substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2017”. In sub-paragraph (a) omit “under subsection (6) above”.
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place where it occurs) substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2017”.

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(1) OJ No L 306, 28.10.87, p 24.

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 35(1)(1) and (2)(2) (punishment of offences)	In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 6(2) of, and Part 2 of Schedule 3 to, the Condensed Milk and Dried Milk (Wales) Regulations 2017”. After subsection (1), insert— “(1A) A person guilty of an offence under section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (Wales) Regulations 2017, is liable, on summary conviction, to a fine.” In subsection (2), for “any other offence under this Act” substitute “an offence under section 33(2), as applied by regulation 6(2) of, and Part 2 of Schedule 3 to, the Condensed Milk and Dried Milk (Wales) Regulations 2017”.

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- (1) Section 35(1) is amended by paragraph 42 of Schedule 26 to the Criminal Justice Act 2003 (c. 44) from a date to be appointed. There are other amendments to section 35(1) not relevant to these Regulations.
- (2) Section 35(2) was amended by S.I. 2015/664. There are other amendments to section 35(2) not relevant to these Regulations.

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 36 (offences by bodies corporate)	In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (Wales) Regulations 2017.”.
Section 36A(1) (offences by Scottish partnerships)	For “this Act” substitute “section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (Wales) Regulations 2017.”.
Section 37(1), (3), (5) and (6) (appeals to magistrates’ court)	For subsection (1) substitute— “(1) Any person who is aggrieved by a decision of an authorised officer of a food authority to serve an improvement notice under section 10(1), as applied and modified by regulation 6(1) of, and Part 1 of Schedule 3 to, the Condensed Milk and Dried Milk (Wales) Regulations 2017, may appeal to a magistrates’ court.” For subsection (5) substitute— “(5) The period within which such an appeal as is mentioned in subsection (1) above may be brought shall be— one month from the date on which notice of the

(1) Section 36A was inserted by section 40(1) of, and paragraphs 7 and 16 of Schedule 5 to, the Food Standards Act 1999 (c. 28).

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Modifications</i>
Section 39 (appeals against improvement notices)	<p>decision was served on the person desiring to appeal; or the period specified in the improvement notice, whichever ends the earlier; and in the case of such an appeal, the making of the complaint shall be deemed for the purposes of this subsection to be the bringing of the appeal.”</p> <p>In subsection (6)— for “(3) or (4)” substitute “(1)”, and in paragraph (a), omit “or to the sheriff”.</p> <p>For subsection (1) substitute—</p> <p>“(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 6(1) of, and Part 1 of Schedule 3 to, the Condensed Milk and Dried Milk (Wales) Regulations 2017, the magistrates’ court may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the court may in the circumstances think fit.”</p> <p>In subsection (3), omit “for want of prosecution”.</p>



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<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 44 (protection of officers acting in good faith)	For “this Act” (in each place where it occurs) substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2017”.

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## Annex C

### Organisation Name

Dailycer Ltd

Cardiff Metropolitan University

Minton, Treharne & Davies Limited

Tate and Lyle Food Systems

Sweet DelightsOP Chocolate Ltd

Uren Food Group Ltd

One Stop Stores Limited

Food Centre Wales

Jersey Bakery Ltd

Brands2Life

Pembertons Victorian Chocolates Ltd

Abergavenny Fine Foods Ltd

Mario's Luxury Welsh Ice Cream

Castell Howell Foods Ltd

Lewis Fine Foods Ltd

Shoda Sauces Europe Company Limited

Selectfood

Four Seasons Pantry

Baraka Foods Ltd

B Sidoli & Sons Ltd

Food Technology Centre

Bridgend College

Federation of Small Businesses - Wales

EuroCaps Ltd

Just Love Food Company Ltd

Menter a Busnes

Tillery Valley Foods Ltd

Sodexo UK & Ireland

Patchwork Traditional Food Company

Wholebake Ltd

Harlech Food Service Ltd

Eurofoods UK Ltd

Welsh Local Government Association

Cranberry Foods Limited

Rowan Foods

Celtic Oriental Ltd