STATUTORY RULES OF NORTHERN IRELAND

2018 No. 77

FOOD

The Condensed Milk and Dried Milk Regulations (Northern Ireland) 2018

Made - - - -	*27th March 2018*
Coming into operation	*23rd April 2018*

The Department of Health(**1**) makes the following Regulations in exercise of the powers conferred on it by Articles 15(1)(a) and (e), 16(1), 25(1) and (3), 26(3), 32(1) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**) and paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

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

In accordance with Article 47(3A) of that Order, it has had regard to relevant advice given by the Food Standards Agency.

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(**4**)as last amended by Regulation (EC) No 652/2014 of the European Parliament and of the Council laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material(**5**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Condensed Milk and Dried Milk Regulations (Northern Ireland) 2018 and come into operation on 23rd April 2018.

(**1**) Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I), section 1
(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I. 12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505
(**3**) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006 c.51) and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (2008 c.7)
(**4**) OJ No. L 31, 1.2.2002, p.1
(**5**) OJ No L 189, 27.6.2014, p 1

Interpretation

2.—(1) In these Regulations

"designated product" means any product specified in the second 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;

"the Order" means the Food Safety (Northern Ireland) Order 1991;

"partly dehydrated milk" 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 those 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", 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" includes offer or expose for sale or have in possession for sale;

"totally dehydrated milk" 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; and

"total milk solids" means all the constituents of milk other than water, including milk fat, the constituents other than milk fat being present in their natural proportions.

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

(a) resale;

(b) a mass caterer;

(c) a manufacturing business.

(3) In this regulation, "mass caterer" 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" 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(**6**) as last amended by Commission Regulation (EU) 2018/97 amending Annex II to Regulation (EC) No 1333/2008 as regards the use of sweeteners in fine bakery wares(**7**);

(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(**8**) as last amended by Commission Regulation (EU) 2017/1203 amending Directive 2002/46/EC of the European Parliament and of the Council and Regulation (EC) No 1925/2006 of the European Parliament and of the Council as regards organic silicon (monomethylsilanetriol) and calcium phosphoryl oligosaccharides (POs-Ca®) added to foods and used in the manufacture of food supplements(**9**);

(**6**) OJ No L 354, 31.12.08, p 16
(**7**) OJ No L17, 23.1.2018, p11
(**8**) OJ No L 404, 30.12.06, p 26
(**9**) OJ No L 173, 6.7.17, p 9

(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(**10**);

(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(**11**).

(5) The Interpretation Act (Northern Ireland) 1954(**12**) applies to these regulations as it applies to an Act of the Assembly.

Reserved descriptions

3. A person must not 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, derivative of a reserved description, or a substantially similar word or description unless—

(a) such food is the designated product to which the reserved description 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. A person must not 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 containing the words “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(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(b) to (d) may appear on the label or the outer packaging.

Application and modification of provisions of the Order

6.—(1) Article 9(1) and (2) of the Order (improvement notices) apply with the modification (in the case of Article 9(1)) set out in Part 1 of Schedule 3 for the purposes of—

(**10**) OJ No L 327, 24.12.79, p 29
(**11**) OJ No L 306, 28.10.87, p 24
(**12**) 1954 c.33 (N.I)

(a) enabling an improvement notice to be served on a person requiring that person to comply with 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 Order 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 Order to these Regulations for purposes other than those specified in paragraph (1).

Enforcement

7. It is the duty of each district council within its district to enforce these Regulations.

Revocations

8. The following Regulations are revoked to the extent specified—

(a) The Condensed Milk and Dried Milk Regulations (Northern Ireland) 2003(**13**);

(b) Schedule 7 paragraphs 18 and 19 of the Food Hygiene Regulations (Northern Ireland) 2006(**14**); and

(c) The Condensed Milk and Dried Milk (Amendment) Regulations (Northern Ireland) 2008(**15**).

Sealed with the official seal of the Department of Health on 27th March 2018

L.S.

L.S.

Dr Elizabeth Redmond
A senior officer of the Department of Health

(**13**) SR 2003 No 300
(**14**) SR 2006 No 3
(**15**) SR 2008 No 42