

**EXPLANATORY MEMORANDUM TO**  
**THE CONDENSED MILK AND DRIED MILK (ENGLAND) REGULATIONS**

**2015 No. 675**

**1.** This explanatory memorandum has been prepared by The Department for Environment, Food & Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instruments**

2.1 The purpose of the proposed changes, agreed under the Red Tape Challenge Hospitality Theme, is to streamline existing regulations by reducing the number of statutory instruments and to bring the enforcement regime in line with other similar regulations for food.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 This is a straight forward consolidation. The new regulation replaces the existing Statutory Instruments (SIs) with a single SI. The regulations which apply to composition, standards and labelling remain unchanged, but the criminal sanctions for breaching the regulations have been replaced with civil sanctions (an improvement notice approach consistent with the Food Safety Act 1990 and other similar Regulations for food).

4.2 The changes are being made in the context of the Red Tape Challenge (RTC) to rationalise the Department's legislation, including making it easier for businesses to navigate, and Government policy on criminal and civil sanctions.

4.3 The same standardised approach to enforcement i.e. service of an improvement notice on a trader where an authorised officer has reasonable grounds for believing that the trader has not complied with, or is not likely to comply with, an obligation in the Regulations (appealable to First-tier Tribunal) plus criminal offence provision for failure to comply with an improvement notice, has been taken in the case of the Food Information (England) Regulations and regulations in respect of the following: fish labelling, ; meat products; and fruit juices and fruit nectars.

**5. Territorial Extent and Application**

5.1 The instrument applies to England only.

5.2 It is anticipated that Scotland, Wales and Northern Ireland will implement the requirements through their own SI in a way that delivers consistency at a UK level.

## **6. European Convention on Human Rights**

6.1 The instrument is subject to negative resolution procedure and does not amend primary legislation, so no statement is required.

## **7. Policy background**

- What is being done and why

7.1 The policy aim is:

(i) to continue to meet our EU obligations by providing in domestic law for proportionate, effective and risk- based enforcement of the obligations in the relevant EU Directives in respect of consumer information, labelling and description of certain designated milk products.

(ii) to rationalise Regulations by consolidating two SIs concerned with the same subject matter, making referencing easier for industry and enforcing authorities.

- Consolidation

7.2 The Condensed Milk and Dried Milk (England) Regulations 2003 (S.I No 1596) and The Condensed Milk and Dried Milk (England) (Amendment) Regulations 2008 (S.I No 85) will be revoked and their subject matter dealt with in this consolidated SI.

## **8. Consultation outcome**

Industry has been consulted informally on the proposed changes and a 6 week public consultation took place between December 2012 and January 2013. No responses were received.

## **9. Guidance**

Indicative data sources<sup>1</sup> suggest that established businesses are unlikely to refer to the SI once made, after familiarising themselves with its terms, , unless the SI is amended in future. Given that this is a straightforward consolidation of two SIs, regulatory affairs managers are likely to simply disseminate changes via technical and legal bulletins.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies will be negligible. The changes are likely to impact on those who are involved in the trade of condensed and dried milks as well as trade representation organisations in the food industry and enforcement officers only.

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<sup>1</sup> Wholesale Pages and Companies House information

10.2 The impact on the public sector is relatively minor, with a deregulatory impact overall.

10.3 As a straight forward consolidation a full Impact Assessment is not required.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 However, given that this is a straightforward consolidation of SIs with minimal impact, small businesses will not be disadvantaged.

## **12. Monitoring & review**

A Post Implementation Review (PIR) would be disproportionate given that there is no change in policy beyond the enforcement regime.

## **13. Contact**

Contact Bobbie Warwick 0207 238 3192 or e-mail [bobbie.warwick@defra.gsi.gov.uk](mailto:bobbie.warwick@defra.gsi.gov.uk) with any queries regarding the instrument.