

## SCHEDULE 1

Regulation 2(1)

## Partly or totally dehydrated preserved milk products and their reserved descriptions

<i>Reserved descriptions</i>	<i>Designated products</i>
<b>1. Partly dehydrated milk</b>	
<i>Types of unsweetened condensed milk</i>	
(a) Condensed high-fat milk	Partly dehydrated milk containing, by weight, not less than 15% fat and not less than 26.5% total milk solids
(b) Condensed milk	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	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	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 condensed milk	Partly 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	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	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
<b>2. Totally dehydrated milk</b>	
(a) Dried high-fat milk or high-fat milk powder	Totally dehydrated milk containing, by weight, not less than 42% fat
(b) Dried whole milk or whole milk powder	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	Totally dehydrated milk containing, by weight, more than 1.5% and less than 26% fat
(d) Dried skimmed milk or skimmed milk powder	Totally dehydrated milk containing, by weight, not more than 1.5% fat

**Notes**

1. Any designated product may contain—

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- (a) any substance permitted pursuant to Regulation (EC) No 1333/2008 of the European Parliament and of the Council(1); and
  - (b) vitamins and minerals in accordance with the requirements of Regulation (EC) No 1925/2006(2).
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(3), 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.
- 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(4).

## SCHEDULE 2

Regulation 2(1)

Permitted alternative descriptions to the reserved descriptions specified in Schedule 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.

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(1) OJ No L 354, 31.12.08, p 16, last amended by Commission Regulation (EU) No 298/2014 (OJ No L 89, 25.3.14, p 36).  
 (2) OJ No L 404, 30.12.06, p 26, last amended by Regulation (EU) No 1169/2011 of the European Parliament and of the Council (OJ No L 304, 22.11.11, p 18).  
 (3) OJ No L 139, 30.4.04, p 55 (corrected version in OJ No L 226, 25.6.04, p 22), last amended by Commission Regulation (EU) No 218/2014 (OJ No L 69, 8.3.14, p 95).  
 (4) OJ No L 327, 24.12.79, p 29.

2. 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.

3. 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%.

## 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—

“(1) If an authorised officer of an enforcement authority has reasonable grounds for believing that a person is failing to comply with regulation 3, 4 or 5 of the Condensed Milk and Dried Milk (England) Regulations 2015, 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 provision;
- (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 those measures, or measures that are at least equivalent to them, within such period as may be specified in the notice.”.

## PART 2

### Modification of section 37(1) and (6)

2.—(1) For section 37(1) of the Act (appeals) substitute—

“(1) Any person who is aggrieved by a decision of an authorised officer of an enforcement authority to serve an improvement notice under section 10(1), as applied and modified by regulation 6 of, and Part 1 of Schedule 3 to, the Condensed Milk and Dried Milk (England) Regulations 2015, may appeal to the First-tier Tribunal.”.

(2) In section 37(6)—

- (a) for “(3) or (4)” substitute “(1)”; and
- (b) in paragraph (a), for “a magistrates’ court or to the sheriff” substitute “the First-tier Tribunal”.

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## PART 3

### Modification of section 39(1) and (3)

3.—(1) For section 39(1) of the Act (appeals against improvement notices) substitute—

“(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 6 of, and Part 1 of Schedule 3 to, the Condensed Milk and Dried Milk (England) Regulations 2015, the First-tier Tribunal 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 First-tier Tribunal may in the circumstances think fit.”

(2) In section 39(3), omit “for want of prosecution”.

## PART 4

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

<i>Provision of the Act</i>	<i>Modifications</i>
Section 2(5) (extended meaning of “sale” etc.)	In subsection (1), for “this Act” substitute “the Condensed Milk and Dried Milk (England) Regulations 2015”.  In subsection (2), for “This Act” substitute “The Condensed Milk and Dried Milk (England) Regulations 2015”.
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Condensed Milk and Dried Milk (England) Regulations 2015”.
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 (England) Regulations 2015,”.
Section 21(1) (defence of due diligence)	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 (England) Regulations 2015”.  Omit “, subject to subsection (5) below,”.
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 (England) Regulations 2015, must exercise and perform those duties in accordance with the 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(6) and”.
Section 30(8) (evidence of certificates given by a food analyst or examiner)	For “this Act” substitute “the Condensed Milk and Dried Milk (England) Regulations 2015”.  In sub-paragraph (a) omit “under subsection (6) above”.

(5) Section 2(1) was amended by the Food Standards Act 1999 (c. 28), Schedule 5, paragraph 8.

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

<i>Provision of the Act</i>	<i>Modifications</i>
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 (England) Regulations 2015”.
Section 35(1)(7) and (2) (punishment of offences)	In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 6(4) of, and Part 4 of Schedule 3 to, the Condensed Milk and Dried Milk (England) Regulations 2015,”.  After subsection (1), insert— <p>“(1A) A person guilty of an offence under section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (England) Regulations 2015, shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”.</p> <p>In subsection (2)—</p> <p>(a) for “any other offence under this Act” substitute “an offence under section 33(2), as applied by regulation 6(4) of, and Part 4 of Schedule 3 to, the Condensed Milk and Dried Milk (England) Regulations 2015,”; and</p> <p>(b) in paragraph (b), for “the relevant amount” substitute “the statutory maximum”.</p>
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 (England) Regulations 2015,”.
Section 36A(8) (offences by Scottish partnerships)	For “this Act” substitute “section 10(2) as applied by regulation 6(1) of the Condensed Milk and Dried Milk (England) Regulations 2015,”.
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 (England) Regulations 2015”.

(7) Section 35(1) is amended by the Criminal Justice Act 2003 (c. 44), Schedule 26, paragraph 42 from a date to be appointed.

(8) Section 36A was inserted by the Food Standards Act 1999, Schedule 5, paragraph 16.