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WELSH STATUTORY INSTRUMENTS

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**2018 No. 275**

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

**Title, application and commencement**

1.—(1) The title of these Regulations is the Condensed Milk and Dried Milk (Wales) Regulations 2018.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 26 March 2018.

**Interpretation**

2.—(1) In these Regulations—

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

“designated product” (“*cynnyrch dynodedig*”) 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” (“*llaeth wedi ei ddadhydradu’n rhannol*”) 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” (“*disgrifiad neilltuedig*”), 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” (“*gwerthu*”) includes offer or expose for sale or have in possession for sale;

“totally dehydrated milk” (“*llaeth wedi ei ddadhydradu’n llwyr*”) 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” (“*cyfanswm y solidau llaeth*”) 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” (“*disgrifiad neilltuedig cyfatebol Cymraeg*”), 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” (“*defnyddiwr olaf*”) means any person who buys otherwise than for—

(a) resale;

(b) a mass caterer;

(c) a manufacturing business.

(3) In this regulation, “mass caterer” (“*arlwywr mawr*”) 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” (“*paratoi*”) 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>;
- (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>(4)</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 containing the words “not intended as a food for infants under 12 months”.

(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.

(4) 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 “nid yw wedi ei fwriadu yn fwyd i fabanod o dan 12 mis oed”, 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.—(1) 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 to the extent specified—

<i>Regulations revoked</i>	<i>Extent of revocation</i>
The Condensed Milk and Dried Milk (Wales) Regulations 2003 <sup>(5)</sup>	The whole Regulations
The Food Hygiene (Wales) Regulations 2006 <sup>(6)</sup>	Regulation 33(2)
The Condensed Milk and Dried Milk (Wales) (Amendment) Regulations 2008 <sup>(7)</sup>	The whole Regulations

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

(6) S.I. 2006/31 (W. 5).

(7) S.I. 2008/137 (W. 19).

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