

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 2018, 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.)	<p>In subsection (1), for “this Act” substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2018”.</p> <p>In subsection (2), for “This Act” substitute “The Condensed Milk and Dried Milk (Wales) Regulations 2018”.</p>
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2018”.
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 2018”.
Section 21(1) and (5) (defence of due diligence)	In subsection (1), for “any of the preceding provisions of this Part”

Status: This is the original version (as it was originally made).

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 29 (procurement of samples)	<p>substitute “section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (Wales) Regulations 2018”.</p> <p>After the words “enforcement authority”, insert “, when carrying out duties under this section in relation to the Condensed Milk and Dried Milk (Wales) Regulations 2018, 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(1) and”.</p>
Section 30(8) (analysis etc. of samples)	<p>For “this Act” substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2018”.</p> <p>In sub-paragraph (a) omit “under subsection (6) above”.</p>
Section 33 (obstruction etc. of officers)	<p>In subsection (1), for “this Act” (in each place where it occurs) substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2018”.</p>
Section 35(1)(2) and (2)(3) (punishment of offences)	<p>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 2018”.</p> <p>After subsection (1), insert—</p> <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 (Wales) Regulations 2018, is liable, on summary conviction, to a fine.”</p> <p>In subsection (2), for “any other offence under this Act” substitute</p>

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

(2) 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.

(3) 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)	<p>“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 2018.”</p> <p>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 2018.”</p>
Section 36A(4) (offences by Scottish partnerships)	<p>For “this Act” substitute “section 10(2), as applied by regulation 6(1) of the Condensed Milk and Dried Milk (Wales) Regulations 2018.”</p>
Section 37(1), (3), (5) and (6) (appeals to magistrates’ court)	<p>For subsection (1) substitute—</p> <p>“(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 2018, may appeal to a magistrates’ court.”</p> <p>For subsection (5) substitute—</p> <p>“(5) The period within which such an appeal as is mentioned in subsection (1) above may be brought shall be—</p> <p style="padding-left: 40px;">one month from the date on which notice of the 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)—</p> <p>for “(3) or (4)” substitute “(1)”, and</p>

(4) 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).

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<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 39 (appeals against improvement notices)	<p>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 2018, 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>
Section 44 (protection of officers acting in good faith)	<p>For “this Act” (in each place where it occurs) substitute “the Condensed Milk and Dried Milk (Wales) Regulations 2018”.</p>