

SCHEDULE 5

Regulation 7

Modifications of the Food Safety Act 1990

<i>Provision of the Food Safety Act 1990 that applies</i>	<i>Modification</i>
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “ the Caseins and Caseinates (England) Regulations 2017 ”
Section 10(1) and (2) (improvement notices)	For subsection (1) (improvement notices) substitute— “(1) If an authorised officer of a food authority has reasonable grounds for believing that a person is failing to comply with any of regulation 3(1), 5(2) or 5(4) of the Caseins and Caseinates (England) Regulations 2017, 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 (not being less than 14 days) as may be specified in the notice.”
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 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, ”
Section 21(1) and (5) (defence of due diligence)	In subsection (1), for “any of the preceding provisions of this Part” substitute “ section 10(2), as applied by regulation 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017 ”
Section 30(8) (evidence of certificates given by a food analyst or examiner)	For “this Act” substitute “ the Caseins and Caseinates (England) Regulations 2017 ”
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place occurring) substitute “ the Caseins and Caseinates (England) Regulations 2017 ”
Section 35 MI (punishment of offences) but only subsections (1) and (2) and in so far as section 35	In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, ”

Changes to legislation: There are currently no known outstanding effects for the *The Caseins and Caseinates (England) Regulations 2017, SCHEDULE 5*. (See end of Document for details)

<p>is modified by these Regulations to include subsection (1ZA)</p>	<p>After subsection (1), insert— “(1ZA) A person guilty of an offence under section 10(2), as applied by regulation 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, shall be liable, on summary conviction, to a fine.” In subsection (2) for “any other offence under this Act”, substitute “ an offence under section 33(2), as applied by regulation 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, ”</p>
<p>Section 36 (offences by body corporate)</p>	<p>In subsection (1), for “this Act” substitute “ section 10(2), as applied by regulation 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, ”</p>
<p>Section 36A M2 (offences by Scottish partnerships)</p>	<p>For “this Act” substitute “ section 10(2), as applied by regulation 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, ”</p>
<p>Section 37(1) and (6) (appeals)</p>	<p>For subsection (1) substitute— “(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 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, may appeal to the First-tier Tribunal.” In subsection (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 ”</p>
<p>Section 39 (appeals against improvement notices)</p>	<p>For subsection (1) substitute— “(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 7 of, and Schedule 5 to, the Caseins and Caseinates (England) Regulations 2017, 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.” In subsection (3), omit “for want of prosecution”</p>
<p>Section 44 (protection of officers acting in good faith)</p>	<p>For “this Act” (in each place occurring) substitute “ the Caseins and Caseinates (England) Regulations 2017 ”</p>

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Marginal Citations

- M1** In relation to the reference in section 35(1) to “a fine not exceeding level 5 on the standard scale”, see [section 85\(1\)](#) of the [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#). 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. Section 35(2) was amended by [S.I. 2015/664](#).
- M2** [Section 36A](#) was inserted by paragraph 16 of Schedule 5 to the [Food Standards Act 1999 \(c. 28\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The Caseins and Caseinates (England) Regulations 2017, SCHEDULE 5.