

SCHEDULE 5

Regulation 8

Application and modification of provisions of the Act

PART 1

Modification of section 10(1)

1. For section 10(1) substitute—

“If an authorised officer has reasonable grounds for believing that a person is failing to comply with any of regulations 4, 5 or 6 of the Caseins and Caseinates (Wales) Regulations 2016, 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.”

Commencement Information

I1 Sch. 5 para. 1 in force at 22.12.2016, see **reg. 1(3)**

PART 2

Application and modification of other provisions of the Act

Commencement Information

I2 Sch. 5 Pt. 2 in force at 22.12.2016, see **reg. 1(3)**

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 2 (extended meaning of “sale” etc.)	In subsection (1), for “this Act” substitute “the Caseins and Caseinates (Wales) Regulations 2016”. In subsection (2), for “this Act” substitute “the Caseins and Caseinates (Wales) Regulations 2016”.
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Caseins and Caseinates (Wales) Regulations 2016”

Changes to legislation: There are currently no known outstanding effects for the *The Caseins and Caseinates (Wales) Regulations 2016, SCHEDULE 5.* (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
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 8 of the Caseins and Caseinates (Wales) Regulations 2016”
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 8 of the Caseins and Caseinates (Wales) Regulations 2016”
Section 30(8) (evidence of certificates given by a food analyst or examiner)	For “this Act” substitute “the Caseins and Caseinates (Wales) Regulations 2016”
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place occurring) substitute “the Caseins and Caseinates (Wales) Regulations 2016”
Section 35(1)(1) and (2)(2) (punishment of offences)	In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 8 of, and Schedule 5 to, the Caseins and Caseinates (Wales) Regulations 2016” After subsection (1), insert— “(1A) A person guilty of an offence under section 10(2), as applied by regulation 8 of the Caseins and Caseinates (Wales) Regulations 2016, is 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 8 of, and Schedule 5 to, the Caseins and Caseinates (Wales) Regulations 2016”
Section 36 (offences by body corporate)	In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 8 of the Caseins and Caseinates (Wales) Regulations 2016”

(1) 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.

(2) 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 36A(3) (offences by Scottish partnerships)	For “this Act” substitute “section 10(2), as applied by regulation 8 of the Caseins and Caseinates (Wales) Regulations 2016”
Section 37(1), (3), (5) and (6) (appeals)	<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 8 of the Caseins and Caseinates (Wales) Regulations 2016, 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>one month from the date on which notice of the decision was served on the person desiring to appeal; or</p> <p>the period specified in the improvement notice, whichever ends the earlier; and</p> <p>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> <p>in paragraph (a), omit “or to the sheriff”.</p>
Section 39 (appeals against improvement notices)	<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 8 of the Caseins and Caseinates (Wales) Regulations 2016, the magistrates’ court may either</p>

(3) 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).

Changes to legislation: There are currently no known outstanding effects for the The Caseins and Caseinates (Wales) Regulations 2016, SCHEDULE 5. (See end of Document for details)

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 44 (protection of officers acting in good faith)	<p>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> <p>For “this Act” (in each place occurring) substitute “the Caseins and Caseinates (Wales) Regulations 2016”</p>

Changes to legislation:

There are currently no known outstanding effects for the The Caseins and Caseinates (Wales) Regulations 2016, SCHEDULE 5.