

SCHEDULE

Regulation 15

Application of provisions of the Food Safety Act 1990

“SCHEDULE 2

Regulation 27

PART 1

Modification of section 10(1)

1. For section 10(1) of the Act (improvement notices) substitute—

“(1) If an authorised officer has reasonable grounds for believing that a person is failing to comply with any provision specified in subsection (1A), the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)—

- (a) state the authorised 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 to so comply;
- (c) specify the measures which, in the authorised 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.

(1A) The provisions referred to in subsection (1) are—

- (a) regulations 10(4), 10(6) and 12(6) of the Materials and Articles in Contact with Food (Wales) Regulations 2012;
- (b) Article 16 of Regulation 1935/2004;
- (c) Article 5 of Regulation 1895/2005;
- (d) Articles 12 and 13 of Regulation 450/2009; and
- (e) the second sentence of Article 8, Article 15 as read with Annex IV, and Article 16 of Regulation 10/2011.”

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>Modification</i>
Section 2 (extended meaning of “sale” etc.)	For “this Act” (in each place it occurs) substitute “the Materials and Articles in Contact with Food (Wales) Regulations 2012”.
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Materials and Articles in Contact with Food (Wales) Regulations 2012, Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 450/2009 and Regulation 10/2011”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modification</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 27 of the Materials and Articles in Contact with Food (Wales) Regulations 2012”.
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 27 of the Materials and Articles in Contact with Food (Wales) Regulations 2012”.
Section 30(6) and (8) (which relates to evidence of certificates given by a food analyst or examiner)	In subsection (8), for “this Act” substitute “the Materials and Articles in Contact with Food (Wales) Regulations 2012”.
Section 32 (powers of entry)	For “this Act” (in each place it occurs) substitute “the Materials and Articles in Contact with Food (Wales) Regulations 2012, Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 450/2009 and Regulation 10/2011”.
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place it occurs) substitute “section 10(1) of this Act as applied and modified by regulation 27 of, and Part 1 of Schedule 2 to, the Materials and Articles in Contact with Food (Wales) Regulations 2012”.
Section 35(1) and (2) (punishment of offences)	In subsection (1), after “section 33(1) above” insert “, as applied and modified by regulation 27 of, and Part 2 of Schedule 2 to, the Materials and Articles in Contact with Food (Wales) Regulations 2012,”. After subsection (1) insert— “(1A) A person guilty of an offence under section 10(2), as applied by regulation 27 of the Materials and Articles in Contact with Food (Wales) Regulations 2012 shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.” In subsection (2), in the opening words, for “any other offence under this Act” substitute “an offence under section 33(2), as applied by regulation 27 of, and Part 2 of Schedule 2 to, the Materials and Articles in Contact with Food (Wales) Regulations 2012,”.
Section 36 (offences by bodies corporate)	In subsection (1), for “this Act” substitute “section 10(2) as applied by regulation 27 of

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modification</i>
	the Materials and Articles in Contact with Food (Wales) Regulations 2012”.
Section 36A (offences by Scottish partnerships)	For “this Act” substitute “section 10(2) as applied by regulation 27 of the Materials and Articles in Contact with Food (Wales) Regulations 2012”.
Section 37(1) and (6) (appeals to a magistrates’ court)	For subsection (1) substitute— “Any person who is aggrieved by a decision of an authorised officer to serve an improvement notice under section 10(1), as applied and modified by regulation 27 of, and Part 1 of Schedule 2 to, the Materials and Articles in Contact with Food (Wales) Regulations 2012, may appeal to a magistrates’ court.” In subsection (6)— for “(3) or (4)” substitute “(1)”; and in paragraph (a), omit “or to the sheriff”.
Section 39 (appeals against improvement notices)	For subsection (1) substitute— “(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 27 of, and Part 1 of Schedule 2 to, the Materials and Articles in Contact with Food (Wales) Regulations 2012, 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 magistrates’ court may in the circumstances think fit.” In subsection (3), omit “for want of prosecution.”.