

SCHEDULE 2

Regulation 4

Modification of provisions of the Act

PART 1

Modification of section 10 of the Act

1. Section 10 of the Act (improvement notices) applies as if, for subsection (1), there were substituted—

“(1) If an authorised officer of an enforcement authority has reasonable grounds for believing that a person is failing to comply with a specified EU law requirement, 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 or, as the case may be, that the food does not comply with the specified EU law requirement;
- (b) specify the matters which constitute the failure 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 such measures that are at least equivalent to them, within such period as may be specified in the notice.”

Commencement Information

- I1** Sch. 2 para. 1 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

PART 2

Modification of section 32 of the Act

2. Section 32 of the Act^{M1} (powers of entry) applies as if—

(a) in subsection (1) for paragraphs (a) to (c) there were substituted—

- “(a) to enter any premises within the authority's area for the purpose of ascertaining whether there has been any contravention of a specified EU law requirement;
- (b) to enter any business premises, whether within or outside the authority's area, for the purpose of ascertaining whether there is on the premises any evidence of any contravention of a specified EU law requirement; and
- (c) when exercising a power of entry under this section, to exercise the associated powers in subsections (5) and (6) relating to records;”;

(b) subsection (9) were omitted.

Commencement Information

- I2** Sch. 2 para. 2 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

Changes to legislation: There are currently no known outstanding effects for the *The Infant Formula and Follow-on Formula (Wales) Regulations 2020, SCHEDULE 2*. (See end of Document for details)

Marginal Citations

- M1** Section 32(5) and (6) was amended by section 70 of, and paragraph 18 of Schedule 2 to, the [Criminal Justice and Police Act 2001 \(c. 16\)](#).

PART 3

Modification of section 35 of the Act

3. Section 35 of the Act (punishment of offences) applies as if, before subsection (2), there were inserted—

“(1B) A person guilty of an offence under section 10(2), as applied by regulation 4(1) of the Infant Formula and Follow-on Formula (Wales) Regulations 2020, is liable on summary conviction, to a fine.”

Commencement Information

- I3** Sch. 2 para. 3 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

PART 4

Modification of section 37 of the Act

4. Section 37 of the Act (appeals to magistrates' court or sheriff) applies as if—

- (a) for the heading there were substituted “ Appeals ”;
- (b) for subsection (1) there were substituted—

“(1) Any person who is aggrieved by a decision of an authorised officer of an enforcement authority to serve an improvement notice under section 10(1), as applied and modified by regulation 4(1) of, and Part 1 of Schedule 2 to, the Infant Formula and Follow-on Formula (Wales) Regulations 2020 may appeal to the magistrates' court.”;

- (c) subsection (2) were omitted;
- (d) for subsection (5) there were substituted—

“(5) The period within which such an appeal as is mentioned in subsection (1) above may be brought must be—whichever ends the earlier—

- (a) one month from the date on which notice of the decision was served on the person desiring to appeal; or
- (b) the period specified in the improvement notice

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.”

- (e) in subsection (6)—
 - (i) for “ subsection (3) or (4) ” there were substituted “ subsection (1) ”; and
 - (ii) in paragraph (a), “or to the sheriff” were omitted.

Commencement Information

- 14** Sch. 2 para. 4 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

PART 5

Modification of section 39 of the Act

5. Section 39 of the Act (appeals against improvement notices) applies as if in subsection (3), “for want of prosecution” were omitted.

Commencement Information

- 15** Sch. 2 para. 5 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

PART 6

Further modifications of provisions of the Act

6. Section 3 of the 1990 Act (presumptions that food intended for human consumption) applies as if, in subsection (1), for “this Act” there were substituted “ the 2020 Regulations ”.

Commencement Information

- 16** Sch. 2 para. 6 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

7. Section 20 of the Act (offences due to fault of another person) applies as if, for “any of the preceding provisions of this Part”, there were substituted “ the 2020 Regulations ”.

Commencement Information

- 17** Sch. 2 para. 7 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

8. Section 21 of the Act (defence of due diligence) applies as if, in subsection (1), for “any of the preceding provisions of this Part”, there were substituted “ the 2020 Regulations ”.

Commencement Information

- 18** Sch. 2 para. 8 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

9. Section 22 of the Act (defence of publication in the course of business) applies as if, for “any of the preceding provisions of this Part”, there were substituted “ the 2020 Regulations ”.

Changes to legislation: There are currently no known outstanding effects for the The Infant Formula and Follow-on Formula (Wales) Regulations 2020, SCHEDULE 2. (See end of Document for details)

Commencement Information

I9 Sch. 2 para. 9 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

10. Section 29 of the Act (procurement of samples) applies as if, in paragraph (b)(ii), after “under section 32 below”, there were inserted “ including under section 32 as applied and modified by regulation 4(2) of, and Part 2 of Schedule 2 to, the 2020 Regulations ”.

Commencement Information

I10 Sch. 2 para. 10 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

11. Section 30 of the Act (analysis etc. of samples) applies as if—

- (a) in subsection (1), after “under section 29 above”, there were inserted “ including under section 29 as applied and modified by regulation 4(6) of, and Part 6 of Schedule 2 to, the 2020 Regulations ”; and
- (b) in subsection (8), for “this Act” there were substituted “ the 2020 Regulations ”.

Commencement Information

I11 Sch. 2 para. 11 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

12. Section 33 of the Act (obstruction etc. of officers) applies as if, in subsection (1), for “this Act” (in each place where it occurs) there were substituted “ the 2020 Regulations ”.

Commencement Information

I12 Sch. 2 para. 12 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

13. Section 36 of the Act (offences by bodies corporate) applies as if, in subsection (1), for “this Act” there were substituted “ the 2020 Regulations ”.

Commencement Information

I13 Sch. 2 para. 13 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

14. Section 36A of the Act ^{M2} (offences by Scottish partnerships) applies as if, for “this Act”, there were substituted “ the 2020 Regulations ”.

Commencement Information

I14 Sch. 2 para. 14 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

Marginal Citations

M2 [Section 36A](#) was inserted by section 40(1) of, and paragraph 16 of Schedule 5 to, the 1999 Act.

15. Section 44 of the Act (protection of officers acting in good faith) applies as if, for “this Act”, in each place where those words appear, there were substituted “ the 2020 Regulations ”.

Commencement Information

I15 Sch. 2 para. 15 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

16. Section 53 (general interpretation) applies as if—

- (a) after the definition of “the 1956 Act” there were inserted—
““the 2020 Regulations” means the Infant Formula and Follow-on Formula (Wales) Regulations 2020;”;
- (b) after the definition of “slaughterhouse” there were inserted—
““specified EU law requirement” has the meaning given in regulation 2(1) of the 2020 Regulations;”.

Commencement Information

I16 Sch. 2 para. 16 in force at 22.2.2020 for specified purposes and at 22.2.2021 in so far as not already in force, see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Infant Formula and Follow-on Formula (Wales) Regulations 2020, SCHEDULE 2.