

[^{F1}SCHEDULE 4

Regulation of infant formula and follow-on formula manufactured from protein hydrolysates until 22 February 2022

Textual Amendments

- F1** Sch. 4 inserted (16.9.2021) by The Infant Formula and Follow-on Formula (Wales) (Amendment) Regulations 2021 (S.I. 2021/955), reg. 1(2), Sch.

Application of the improvement notice provisions of the Act

26.—(1) Section 10(1) and (2) of the Act (improvement notices) applies, with the modification (in the case of section 10(1)) specified in sub-paragraph (2), for the purposes of—

- (a) enabling an improvement notice to be served on a person requiring the person to secure compliance with any of the requirements specified in paragraph 2; and
- (b) making the failure to comply with a notice referred to in paragraph (a) an offence.

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

“(1) If an authorised officer of an enforcement authority has reasonable ground for suspecting that a person is failing to comply with paragraph 2 of Schedule 4 to the Infant Formula and Follow-on Formula (Wales) Regulations 2020, 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 suspecting that the person is failing to comply or as the case may be, that the food does not comply with the relevant provision;
- (b) specify the matters which constitute the failure to so 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.”

(3) Section 32(1) to (8) of the Act (powers of entry) applies, with the modification (in the case of section 32(1)) specified in sub-paragraph (4), for the purposes of enabling an authorised officer of an enforcement authority—

- (a) to exercise a power of entry to ascertain whether food that does not comply with the requirements of paragraph 2 is, or has been sold; and
- (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of paragraph 2.

(4) For paragraphs (a) to (c) of section 32(1) (powers of entry) of the Act substitute—

- “(a) to enter any premises within the authority’s area for the purposes of ascertaining whether there has been any contravention of paragraph 2 of Schedule 4 to the Infant Formula and Follow-on Formula (Wales) Regulations 2020; and
- (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 that paragraph.”

(5) Section 35 of the Act (punishment of offences) applies, with the modification specified in sub-paragraph (6), for the purpose of specifying the punishment of an offence committed under paragraph 26(1)(b).

(6) In section 35 (punishment of offences) of the Act, after subsection (1) insert—

Changes to legislation: There are currently no known outstanding effects for the The Infant Formula and Follow-on Formula (Wales) Regulations 2020, Paragraph 26. (See end of Document for details)

“(1A) A person guilty of an offence under section 10(2), as applied and modified by paragraph 26(1) and (2) of Schedule 4 to the Infant Formula and Follow-on Formula (Wales) Regulations 2020, is liable, on summary conviction, to a fine.”

(7) Section 37(1), (3), (5) and (6) of the Act (appeals) applies for the purpose of enabling a decision to serve a notice referred to in paragraph 26(1)(a) to be repealed, with the following modifications—

- (a) for the heading substitute “Appeals”;
- (b) for section 37(1) substitute—

“(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 paragraph 26(1) and (2) of Schedule 4 to the Infant Formula and Follow-on Formula (Wales) Regulations 2020, may apply to the magistrates’ court.”;

- (c) for section 37(5) substitute—

“(5) The period within which such an appeal as is mentioned in sub-section (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.”;

- (d) in section 37(6)—

- (i) for “subsection (3) or (4)” substitute “subsection (1)”;
- (ii) in paragraph (a), omit “or to the sheriff”.

(8) Section 39 of the Act (appeals against improvement notices) applies, with the modification specified in sub-paragraph (9), for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph 26(1)(a).

(9) In section 39(3) (appeals against improvement notices), omit “for want of prosecution”.]

Changes to legislation:

There are currently no known outstanding effects for the The Infant Formula and Follow-on Formula (Wales) Regulations 2020, Paragraph 26.