

SCHEDULE 1

Regulation 2(1)

Specified EU requirements

<i>[^{F1}Column 1</i>	<i>Column 2</i>
<i>Specified provision of the EU Regulation</i>	<i>Provisions to be read with the specified provision of the EU Regulation</i>
Article 4(2) (requirement for relevant food to be pre-packed)	Articles 1(1) and 4(1)
Article 9(1) (requirement for the composition of food to be nutritionally appropriate and suitable)	Articles 1(1), 4(1) and 9(3)
Article 9(2) (prohibition on substances in dangerous quantities)	Articles 1(1) and 4(1)
Article 9(5) (requirements as to labelling, presentation and advertising of relevant food)	Articles 1(1), 4(1) and 9(6)
Article 10 (additional requirements for infant formula and follow-on formula)	Article 4(1)
[^{F2} Article 15(1) (Great Britain list)]	[^{F3} Articles 1(1)(a) and (c) and 4(1) and the Annex insofar as it applies to infant formula, follow-on formula and food for special medical purposes]
<i>[^{F4}Specified provision of the Delegated Regulation</i>	<i>Provisions to be read with the specified provision of the Delegated Regulation</i>
Article 2(2) (requirement for the formulation of food to be based on sound medical and nutritional principles)	Article 1
The first sub-paragraph of article 2(3) (requirement for food for special medical purposes developed to satisfy the nutritional requirements of infants to comply with the compositional requirements in Part A of Annex 1)	Articles 1 and 2(4) and Part A of Annex 1
The second-sub paragraph of article 2(3) (requirement for food other than that developed to satisfy the nutritional requirements of infants to comply with the compositional requirements in Part B of Annex 1)	Articles 1 and 2(4) and Part B of Annex 1
Article 3(2) (requirement relating to residue threshold for certain active substances where food for special medical purposes is developed to satisfy the nutritional requirements of infants and young children)	Articles 1 and 3(1), (3) and (5) and Annex 2
Article 3(3) (maximum residue levels for substances listed in Annex 2)	Articles 1 and 3(1), (2) and (5) and Annex 2
Article 3(4) (prohibition on the use of plant protection products)	Articles 1 and 3(1) and (5) and Annex 3

Changes to legislation: There are currently no known outstanding effects for the The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016. (See end of Document for details)

<i>F1</i> Column 1	Column 2
<i>Specified provision of the EU Regulation</i>	<i>Provisions to be read with the specified provision of the EU Regulation</i>
Article 4 (name of the food)	Article 1 and Annex 4
Article 5(1) (requirement for food for special medical purposes to comply with Regulation (EU) No. 1169/2011 unless otherwise specified)	Articles 1 and 5(2)
Article 5(2) (additional mandatory particulars relating to food information)	Articles 1 and 5(1) and (3)
Article 5(3) (application of articles 13(2) and (3) of Regulation (EU) No. 1169/2011 to additional mandatory particulars)	Articles 1 and 5(1) and (2)
Article 6 (specific requirements on the nutrition declaration)	Article 1 and Annex 1
Article 7 (nutrition and health claims)	Article 1
Article 8(1) (requirement for mandatory particulars to appear in a language easily understood by consumers)	Article 1
The first sub-paragraph of article 8(2) (prohibition of pictures of infants or certain other pictures or text)	Article 1
Article 8(3) (requirements relating to labelling, presentation and advertising)	Article 1
The first sub-paragraph of article 8(4) (restriction on publication)	Article 1 and the third sub-paragraph of article 8(4)
Article 8(5) (prohibition on use of promotional devices to induce sales)	Article 1
Article 8(6) (prohibition on providing free or low-priced products, samples or other promotional gifts)	Article 1
Article 9 (notification)	Article 1]]

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| F1 | Sch. 1 Table substituted (22.2.2019) by The Food for Specific Groups (Information and Compositional Requirements) (Amendment) (England) Regulations 2019 (S.I. 2019/44) , regs. 1, 4 |
| F2 | Words in Sch. 1 Table substituted (31.12.2020) by The Nutrition (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/651) , regs. 1(1), 16(4) (as amended by (S.I. 2020/1476), regs. 1(2), 4(3) (b)); 2020 c. 1, Sch. 5 para. 1(1) |
| F3 | Words in Sch. 1 Table substituted (22.2.2020) by The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020 (S.I. 2020/43) , reg. 1(1), Sch. 4 para. 4(a) |
| F4 | Words in Sch. 1 Table substituted (22.2.2020) by The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020 (S.I. 2020/43) , reg. 1(1), Sch. 4 para. 4(b) |

SCHEDULE 2

Regulation 4

Modification of provisions of the Act

PART 1

Modification of section 10 (improvement notices)

1. For section 10(1) substitute—

“(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 requirement, or has placed food on the market that does not comply with a specified EU 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 requirement;
- (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.”

2. Section 10(3) does not apply.

3. After section 10(3) insert—

“(4) In this section “specified EU requirement” has the meaning given to that term in regulation 2(1) of the [^{F5}Food for Specific Groups (Information and Compositional Requirements)] (England) Regulations 2016.”

F5 Words in Sch. 2 para. 3 substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **3(a)**

PART 2

Modification of section 32 (powers of entry)

4. For paragraphs (a) to (c) of section 32(1) substitute—

- “(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 requirement; 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 such a requirement;”

5. Section 32(9) does not apply.

6. After section 32(9) insert—

“(10) In this section “specified EU requirement” has the meaning given to that term in regulation 2(1) of the [^{F6}Food for Specific Groups (Information and Compositional Requirements)] (England) Regulations 2016.”

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

F6 Words in Sch. 2 para. 6 substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **3(a)**

PART 3

Modification of section 35 (punishment of offences)

[^{F7}**6A.** In section 35(1), after “section 33(1) above”, insert “as applied by regulation 4(6) and (7) of the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016,]

F7 Sch. 2 para. 6A inserted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **3(b)(i)**

7. In section 35, after subsection (1A), insert—

“(1B) A person guilty of an offence under section 10(2), as applied by regulation 4(1) of the [^{F8}Food for Specific Groups (Information and Compositional Requirements)] (England) Regulations 2016, is liable, on summary conviction, to a fine.”

F8 Words in Sch. 2 para. 7 substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **3(a)**

[^{F9}**8.** In section 35(2), after “any other offence under this Act”, insert “including an offence under section 33(2), as applied by regulation 4(6) and (7) of the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016,]

F9 Sch. 2 para. 8 substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **3(b)(ii)**

PART 4

Modification of section 37 (appeals to magistrates' courts or sheriff)

9. In section 37(1), omit paragraphs (b) and (c), and for “a magistrates' court or, in Scotland, to the sheriff” substitute “the First-tier Tribunal”.

10. For section 37(3) substitute—

“(3) The appeals procedure under the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009^{M1} applies to appeals made under subsection (1).”

Marginal Citations

M1 [S.I. 2009/1976 \(L20\)](#).

11. For section 37(5) substitute—

“(5) The notice of appeal period under rule 22 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 applies to appeals made under subsection (1).”

12. In section 37(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 ”.

PART 5

Modification of section 39 (appeals against improvement notices)

13. For section 39(1) for “court” (both times it appears) substitute “ First-tier Tribunal ”.
14. In section 39(3), omit “for want of prosecution”.

SCHEDULE 3

Regulation 6

Amendments of statutory instruments

1. The Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997^{M2} are amended as follows—

- (a) for the definition of “relevant food” in regulation 1(2), substitute—

““relevant food” means specially formulated food intended for use in energy-restricted diets for weight reduction, being food which complies with the compositional requirements in Schedule 1 and which, when used as instructed by the manufacturer, replaces the whole of the total daily diet;”;
- (b) for regulation 2(1) substitute—

“(1) No person shall sell any relevant food under any name other than “total diet replacement for weight control” in the case of products intended as a replacement for the whole of the daily diet.”;
- (c) in regulation 2(2) omit “or “meal replacement for weight control””;
- (d) in regulation 3(e) insert “ and ” after “adequate daily fluid intake;”
- (e) in regulation 3(f) omit “medical advice; and” and substitute “ medical advice. ”.
- (f) omit regulation 3(g);
- (g) for regulation 5 substitute—

“No person shall sell any relevant food being a product mentioned in regulation 2(1) unless all individual components making up the product are contained in the same package.”;
- (h) after regulation 6, insert—

“Application of the improvement notice provisions of the Act

6A.—(1) Section 10(1) and (2) of the Act (improvement notices) applies, with the modification (in the case of section 10(1)) specified in Part 1 of Schedule 3, 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 regulation 2; and
- (b) making the failure to comply with a notice referred to in subparagraph (a) an offence.

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

(2) Section 32(1) to (8) of the Act (powers of entry) applies, with the modifications (in the case of section 32(1)) specified in Part 2 of Schedule 3, 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 one or more of the requirements specified in regulation 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 regulation 2.

(3) Section 35 of the Act applies, with the modifications specified in Part 3 of Schedule 3, for the purpose of specifying the punishment of an offence committed under paragraph (1)(b).

(4) Section 37(1) and (6) of the Act (appeals) applies, with the modifications specified in Part 4 of Schedule 3, for the purpose of enabling a decision to serve a notice referred to in paragraph (1)(a) to be appealed.

(5) Section 39 of the Act (appeals against improvement notices) applies, with the modifications (in the case of section 39(1) and (3)) specified in Part 5 of Schedule 3, for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph (1)(a).

(6) This section applies in relation to England only.”;

(i) Schedule 1 is amended as follows—

(i) in paragraph 1.1 substitute “ regulation 2(1) ” for “regulation 2(1)(a)”;

(ii) omit paragraph 1.2;

(iii) in paragraph 2.1 substitute “ regulation 2(1) ” for “regulation 2(1)(a) and (b)”;

(iv) in paragraph 3.2 substitute “ regulation 2(1) ” for “regulation 2(1)(a)”;

(v) omit paragraph 3.3;

(vi) in paragraph 4 substitute “ regulation 2(1) ” for “regulation 2(1)(a)”;

(vii) in paragraph 5.1 substitute “ regulation 2(1) ” for “regulation 2(1)(a)”;

(viii) omit paragraph 5.2; and

(j) After Schedule 2, insert—

“SCHEDULE 3

Modification of the improvement notice provisions of the Act

PART 1

Modification of section 10(1)

1. For section 10(1) (improvement notices) substitute—

“(1) If an authorised officer of an enforcement authority in England has reasonable grounds for believing that a person is failing to comply with regulation 2 of the *Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997*, the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)—

- (a) [^{F10}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 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."

PART 2

Modification of section 32(1)

2. For paragraphs (a) to (c) of section 32(1) (powers of entry) substitute—
 - “(a) to enter any premises within the authority's area for the purpose of ascertaining whether there has been any contravention of regulation 2 of the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997; 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 regulation;”.
3. Section 32(9) does not apply.

PART 3

Modification of section 35 (punishment of offences)

4. In section 35, after subsection (1A), insert—

“(1B) A person guilty of an offence under section 10(2), as applied by regulation 6A(1) of the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997, is liable, on summary conviction, to a fine.”.

PART 4

Modification of section 37(1) and (6)

5. For section 37(1) (appeals) 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 regulation 6A(1) of, and Part 1 of Schedule 3 to, the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997, may apply to the First-tier Tribunal”.
6. Section 37(2) does not apply.
7. For section 37(3) substitute—

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

“(3) The appeals procedure under the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 applies to appeals made under subsection (1)”.

8. For section 37(5) substitute—

“(5) The notice of appeal period under rule 22 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 applies to appeals made under subsection (1)”.

9. In section 37(6)—

(a) for “(3) or (4)” substitute “ (1) ”, and

(b) in paragraph (a), for “magistrates' court or to the sheriff” substitute “ the First-tier Tribunal ”.

PART 5

Modification of section 39(1) and (3)

10. For section 39(1) (appeals against improvement notices) substitute—

“(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 6A(1) of, and Part 1 of Schedule 3 to, the Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997, the First-tier Tribunal may [^{F11}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.”.

11. in section 39(3), omit “for want of prosecution”.”.

- F10** Words in Sch. 3 para. 1(j) substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **4(a)(i)**
- F11** Words in Sch. 3 para. 1(j) substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **4(c)(i)**

Marginal Citations

M2 [S.I. 1997/2182](#).

^{F12}2.

- F12** Sch. 3 para. 2 revoked (22.2.2020) by [The Food for Specific Groups \(Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula\) \(Information and Compositional Requirements\) \(Amendment etc.\) \(England\) Regulations 2020 \(S.I. 2020/43\)](#), reg. 1(1), **Sch. 6** (with reg. 8(2))

3. The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003 ^{M3} are amended as follows—

(a) in the definition of “sell” in regulation 2(1), after the words “advertise for sale”, insert “, and “sold” is to be construed accordingly ”;

(b) after regulation 10, insert—

“Application of the improvement notice provisions of the Act

10A.—(1) Section 10(1) and (2) of the Act (improvement notices) applies, with the modification (in the case of section 10(1)) specified in Part 1 of Schedule 9, 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 regulation 4; and
- (b) making the failure to comply with a notice referred to in subparagraph (a) an offence.

(2) Section 32(1) to (8) of the Act (powers of entry) applies, with the modifications (in the case of section 32(1)) specified in Part 2 of Schedule 9, 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 one or more of the requirements specified in regulation 4 is, or has been, sold; and
- (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of regulation 4.

(3) Section 35 of the Act applies, with the modifications specified in Part 3 of Schedule 9, for the purpose of specifying the punishment of an offence committed under paragraph (1)(b).

(4) Section 37(1) and (6) of the Act (appeals) applies, with the modifications specified in Part 4 of Schedule 9, for the purpose of enabling a decision to serve a notice referred to in paragraph (1)(a) to be appealed.

(5) Section 39 of the Act (appeals against improvement notices) applies, with the modifications (in the case of section 39(1) and (3)) specified in Part 5 of Schedule 9, for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph (1)(a).”; and

(c) After Schedule 8, insert—

“SCHEDULE 9

Modification of the improvement notice provisions of the Act

PART 1

Modification of section 10(1)

1. For section 10(1) (improvement notices) substitute—

“(1) If an authorised officer of an enforcement authority^{F13}... has reasonable grounds for believing that a person is failing to comply with regulation 4 of the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003, the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)—

- (a) [^{F14}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 relevant provision;
- (b) specify the matters which constitute the failure to so comply;

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

- (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.”.

PART 2

Modification of section 32(1)

2. For paragraphs (a) to (c) of section 32(1) (powers of entry) substitute—
 - “(a) to enter any premises within the authority's area for the purpose of ascertaining whether there has been any contravention of regulation 4 of the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003; 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 regulation;”.
3. Section 32(9) does not apply.

PART 3

Modification of section 35 (punishment of offences)

4. In section 35, after subsection (1A), insert—
 - “(1B) A person guilty of an offence under section 10(2), as applied by regulation 10A(1) of the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003, is liable, on summary conviction, to a fine.”.

PART 4

Modification of section 37(1) and (6)

5. For section 37(1) (appeals) 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 regulation 10A(1) of, and Part 1 of Schedule 9 to, the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003, may apply to the First-tier Tribunal”.
6. Section 37(2) does not apply.
7. For section 37(3) substitute—
 - “(3) The appeals procedure under the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 applies to appeals made under subsection (1)”.
8. For section 37(5) substitute—

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

“(5) The notice of appeal period under rule 22 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 applies to appeals made under subsection (1)”.

9. In section 37(6)—

- (a) for “(3) or (4)” substitute “ (1) ”, and
- (b) in paragraph (a), for “magistrates' court or to the sheriff” substitute “ the First-tier Tribunal ”.

PART 5

Modification of section 39(1) and (3)

10. For section 39(1) (appeals against improvement notices) substitute—

“(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 10A(1) of, and Part 1 of Schedule 9 to, the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003, the First-tier Tribunal may [^{F15}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.”.

11. in section 39(3), omit “for want of prosecution”.

- F13** Words in Sch. 3 para. 3(c) omitted (1.3.2017) by virtue of *The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017* (S.I. 2017/62), regs. 1(3), **4(b)(i)**
- F14** Words in Sch. 3 para. 3(c) substituted (1.3.2017) by *The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017* (S.I. 2017/62), regs. 1(3), **4(a)(iii)**
- F15** Words in Sch. 3 para. 3(c) substituted (1.3.2017) by *The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017* (S.I. 2017/62), regs. 1(3), **4(c)(iii)**

Marginal Citations

- M3** S.I. 2003/3207, amended by S.I. 2007/2591, 2011/2131, 2014/1855.

^{F16}4.

- F16** Sch. 3 para. 4 revoked (22.2.2020) by *The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020* (S.I. 2020/43), reg. 1(1), **Sch. 3** (with reg. 5(2)) (as amended by S.I. 2021/168, **reg. 2(3)**)

5. The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009 ^{M4} are amended as follows—

- (a) after regulation 3, insert—

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

“Application of the improvement notice provisions of the Act

3A.—(1) Section 10(1) and (2) of the Act (improvement notices) applies, with the modification (in the case of section 10(1)) specified in [F17Part 1 of Schedule 2], for the purposes of—

- (a) enabling an improvement notice to be served on a person requiring the person to secure compliance with the specified provisions contained in Schedule 1; and
- (b) making the failure to comply with a notice referred to in subparagraph (a) an offence.

(2) Section 32(1) to (8) of the Act (powers of entry) applies, with the modifications (in the case of section 32(1)) specified in Part 2 of Schedule 2, 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 one or more of the specified provisions contained in Schedule 1 is, or has been, sold; and
- (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of the specified provisions contained in Schedule 1.

(3) Section 35 of the Act applies, with the modifications specified in Part 3 of Schedule 2, for the purpose of specifying the punishment of an offence committed under paragraph (1)(b).

(4) Section 37(1) and (6) of the Act (appeals) applies, with the modifications specified in Part 4 of Schedule 2, for the purpose of enabling a decision to serve a notice referred to in paragraph (1)(a) to be appealed.

(5) Section 39 of the Act (appeals against improvement notices) applies, with the modifications (in the case of section 39(1) and (3)) specified in Part 5 of Schedule 2, for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph (1)(a).”;

- (b) In the Schedule, for the title “THE SCHEDULE” substitute “ SCHEDULE 1 ”; and
- (c) After Schedule 1, insert—

“SCHEDULE 2

Modification of the improvement notice provisions of the Act

PART 1

Modification of section 10(1)

1. For section 10(1) (improvement notices) substitute—

“(1) If an authorised officer of an enforcement authority ^{F18}... has reasonable grounds for believing that a person is failing to comply with regulation 3A(1) to the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009, the authorised officer may, by a notice served on that person (in this Act referred to as an “improvement notice”)—

- (a) [F19state 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 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.”.

PART 2

Modification of section 32(1)

2. For paragraphs (a) to (c) of section 32(1) (powers of entry) substitute—
 - “(a) to enter any premises within the authority's area for the purpose of ascertaining whether there has been any contravention of regulation 3A(1) to the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009; 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 regulation;”.
3. Section 32(9) does not apply.

PART 3

Modification of section 35 (punishment of offences)

4. In section 35, after subsection (1A), insert—
 - “(1B) A person guilty of an offence under section 10(2), as applied by regulation 3A(1) of the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009, is liable, on summary conviction, to a fine.”.

PART 4

Modification of section 37(1) and (6)

5. For section 37(1) (appeals) 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 regulation 3A(1) of, and Part 1 of Schedule 2 to, the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009, may apply to the First-tier Tribunal”.
6. Section 37(2) does not apply.
7. For section 37(3) substitute—
 - “(3) The appeals procedure under the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 applies to appeals made under subsection (1)”.
8. For section 37(5) substitute—

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

“(5) The notice of appeal period under rule 22 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 applies to appeals made under subsection (1)”.

9. In section 37(6)—

- (a) for “(3) or (4)” substitute “ (1) ”, and
- (b) in paragraph (a), for “magistrates' court or to the sheriff” substitute “ the First-tier Tribunal ”.

PART 5

Modification of section 39(1) and (3)

10. For section 39(1) (appeals against improvement notices) substitute—

“(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 3A(1) of, and Part 1 of Schedule 2 to, the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009, the First-tier Tribunal may [^{F20}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.”.

11. In section 39(3), omit “for want of prosecution”.

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|------------|---|
| F17 | Words in Sch. 3 para. 5(a) substituted (1.3.2017) by The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017 (S.I. 2017/62) , regs. 1(3), 4(d) |
| F18 | Words in Sch. 3 para. 5(c) omitted (1.3.2017) by virtue of The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017 (S.I. 2017/62) , regs. 1(3), 4(b)(iii) |
| F19 | Words in Sch. 3 para. 5(c) substituted (1.3.2017) by The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017 (S.I. 2017/62) , regs. 1(3), 4(a)(v) |
| F20 | Words in Sch. 3 para. 5(c) substituted (1.3.2017) by The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017 (S.I. 2017/62) , regs. 1(3), 4(c)(v) |

Marginal Citations

- M4** [S.I. 2009/3051](#), amended by [S.I. 2011/1043](#).

SCHEDULE 4

Regulation 6

Amendment of the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009

Article 2(1)(fb) (enforcement action) of [^{F21}the Co-ordination of Regulatory Enforcement (Enforcement Action) Order 2009] is amended as follows—

- (a) in paragraph (vi), for “2014;” substitute “ 2014, ”; and
- (b) after paragraph (vi), insert—

Changes to legislation: There are currently no known outstanding effects for the *The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016*. (See end of Document for details)

“(vii) regulation 4 of, and Schedule 2 to, the Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016,
(viii) regulation 4 of, and Schedule 2, to the Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016 ^{M5}.”.

F21 Words in Sch. 4 substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **5**

Marginal Citations

M5 [S.I. 2016/639](#), W.175.

F21 Words in Sch. 4 substituted (1.3.2017) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(England\) \(Amendment\) Regulations 2017 \(S.I. 2017/62\)](#), regs. 1(3), **5**

Marginal Citations

M5 [S.I. 2016/639](#), W.175.

Changes to legislation:

There are currently no known outstanding effects for the The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016.