

SCHEDULE 2

Modification of provisions of the Act

Regulation 4(1)

PART 1

Modification of section 10

1. For section 10(1) (improvement notices) 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 Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016.”

Regulation 4(2)

PART 2

Modification of section 32

4. 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 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 Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016.”

Regulation 4(3)

PART 3

Modification of section 35

7. In section 35 (punishment of offences), after subsection (1) insert—
- “(1A) A person guilty of an offence under section 10(2), as applied by regulation 4(1) of the Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016, is liable, on summary conviction, to a fine.”
- Regulation 4(4)

PART 4

Modification of section 37

8. 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 4(1) of, and Part 1 of Schedule 2 to, the Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016, may appeal to the magistrates’ court.”
9. For section 37(5) substitute—
- “(5) The period within which such an appeal as is mentioned in subsection (1) above may be brought shall be—
- (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,
- whichever ends the earlier; 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.”
10. In section 37(6)—
- (a) for “(3) or (4)” substitute “(1)”; and
 - (b) in paragraph (a), omit “or to the sheriff”.
- Regulation 4(5)

PART 5

Modification of section 39

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