

SCHEDULE 1

Regulation 2(1)

Specified EU requirements

**Commencement Information**

**II** Sch. 1 in force at 2.8.2016, see [reg. 1\(3\)](#)

<i><sup>F1</sup>Column 1</i>	<i>Column 2</i>
Specified provision of the EU Regulation	Provisions to be read with the specified provision of the EU Regulation
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)
<sup>F2</sup> Article 15(1) (Great Britain list)	<sup>F3</sup> 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]
<sup>F4</sup> Specified provision of the Delegated Regulation	<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

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

Article 3(3) (maximum residue levels for Articles 1 and 3(1), (2) and (5) and Annex 2 substances listed in Annex 2)	
Article 3(4) (prohibition on the use of plant protection products)	Articles 1 and 3(1) and (5) and Annex 3
Article 4 (name of the food)	Article 1
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]]

<b>F1</b>	Sch. 1 Table substituted (22.2.2019) by The Food for Specific Groups (Information and Compositional Requirements) (Amendment) (Wales) Regulations 2019 (S.I. 2019/70), regs. 1(3), <b>4</b>
<b>F2</b>	Words in Sch. 1 substituted (31.12.2020) by The Nutrition (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/179), regs. 1(2), <b>8(3)</b> (as amended by S.I. 2020/1252, regs. 1(2), <b>2(3)(b)</b> ); 2020 c. 1, <b>Sch. 5 para. 1(1)</b>
<b>F3</b>	Words in Sch. 1 substituted (22.2.2020) by The Food for Specific Groups (Information and Compositional Requirements) (Wales) (Amendment) Regulations 2020 (S.I. 2020/92), regs. 1(2), <b>7(a)</b>
<b>F4</b>	Words in Sch. 1 substituted (22.2.2020) by The Food for Specific Groups (Information and Compositional Requirements) (Wales) (Amendment) Regulations 2020 (S.I. 2020/92), regs. 1(2), <b>7(b)</b>

## 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.”

.....  
**Commencement Information**

**I2** Sch. 2 para. 1 in force at 2.8.2016, see [reg. 1\(3\)](#)

2. Section 10(3) does not apply.

.....  
**Commencement Information**

**I3** Sch. 2 para. 2 in force at 2.8.2016, see [reg. 1\(3\)](#)

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.”

.....  
**Commencement Information**

**I4** Sch. 2 para. 3 in force at 2.8.2016, see [reg. 1\(3\)](#)

#### Regulation 4(2)

### PART 2

#### Modification of section 32

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

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

- “(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;”.

**Commencement Information**

**I5** Sch. 2 para. 4 in force at 2.8.2016, see [reg. 1\(3\)](#)

5. Section 32(9) does not apply.

**Commencement Information**

**I6** Sch. 2 para. 5 in force at 2.8.2016, see [reg. 1\(3\)](#)

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.”

**Commencement Information**

**I7** Sch. 2 para. 6 in force at 2.8.2016, see [reg. 1\(3\)](#)

Regulation 4(3)

## PART 3

### Modification of section 35

[<sup>F5</sup>**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) (Wales) Regulations 2016,]

**F5** Sch. 2 para. 6A inserted (22.2.2020) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/92\)](#), regs. 1(2), **8(a)**

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.”

**Commencement Information**

**I8** Sch. 2 para. 7 in force at 2.8.2016, see [reg. 1\(3\)](#)

[<sup>F6</sup>**7A.** 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) (Wales) Regulations 2016,]

**F6** Sch. 2 para. 7A inserted (22.2.2020) by *The Food for Specific Groups (Information and Compositional Requirements) (Wales) (Amendment) Regulations 2020* (S.I. 2020/92), regs. 1(2), **8(b)**

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.”

#### Commencement Information

**I9** Sch. 2 para. 8 in force at 2.8.2016, see **reg. 1(3)**

**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.”

#### Commencement Information

**I10** Sch. 2 para. 9 in force at 2.8.2016, see **reg. 1(3)**

**10.** In section 37(6)—

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

#### Commencement Information

**I11** Sch. 2 para. 10 in force at 2.8.2016, see **reg. 1(3)**

Regulation 4(5)

## PART 5

### Modification of section 39

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

**Commencement Information**I12 Sch. 2 para. 11 in force at 2.8.2016, see [reg. 1\(3\)](#)

## SCHEDULE 3

Regulation 6

## Amendments to statutory instruments

**The Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997**

1. The Foods Intended for Use in Energy Restricted Diets for Weight Reduction Regulations 1997<sup>(1)</sup> are amended as follows—

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

**“Name of the food and compositional requirements**

2.—(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.

(2) No person shall sell any food in the labelling of which the name “total diet replacement for weight control” is used unless that food is relevant food.

(3) Nothing in paragraph (1) prevents the use of the words “amnewidiad deiet cyflawn ar gyfer rheoli pwysau” in addition to the words “total diet replacement for weight control”.

(4) Nothing in paragraphs (1) or (3) prevents the use of equivalent words in any other language in addition to Welsh and English.”;

(c) in regulation 3(e) insert “and” after “adequate daily fluid intake;”;

(d) in regulation 3(f) for “medical advice; and” substitute “medical advice.”;

(e) omit regulation 3(g);

(f) in regulation 5 for “regulation 2(1)(a)” substitute “regulation 2(1)”;

(g) 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

<sup>(1)</sup> [S.I. 1997/2182](#), to which there are amendments not relevant to these Regulations.

- (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 modification (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 (punishment of offences) applies, with the modification 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), (3), (5) and (6) of the Act (appeals) applies, with the modification (in the case of section 37(1), (5) and (6)) 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 modification (in the case of section 39(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).”;
- (h) Schedule 1 is amended as follows—
  - (i) in paragraph 1.1 for “regulation 2(1)(a)” substitute “regulation 2(1)”;
  - (ii) omit paragraph 1.2;
  - (iii) in paragraph 2.1 for “regulation 2(1)(a) and (b)” substitute “regulation 2(1)”, and for “regulation 2(1)(a)” substitute “regulation 2(1)”;
  - (iv) in paragraph 3.2 for “regulation 2(1)(a)” substitute “regulation 2(1)”;
  - (v) omit paragraph 3.3;
  - (vi) in paragraph 4 for “regulation 2(1)(a)” substitute “regulation 2(1)”;
  - (vii) in paragraph 5.1 for “regulation 2(1)(a)” substitute “regulation 2(1)”;
  - (viii) omit paragraph 5.2; and
- (i) after Schedule 2, insert—

“SCHEDULE 3

Regulation 6A

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 has reasonable grounds for suspecting 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) 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."

## 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;”.

## PART 3

### Modification of section 35

3. 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 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), (5) and (6)

4. 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 magistrates' court.”
5. 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.”

6. In section 37(6)—
  - (a) for “(3) or (4)” substitute “(1)”; and
  - (b) in paragraph (a), omit “or to the sheriff”.

## PART 5

### Modification of section 39(3)

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

#### Commencement Information

**I13** Sch. 3 para. 1 in force at 2.8.2016, see [reg. 1\(3\)](#)

#### The Medical Food (Wales) Regulations 2000

**F7** 2. ....

**F7** Sch. 3 para. 2 revoked (22.2.2020) by [The Food for Specific Groups \(Information and Compositional Requirements\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/92\)](#), [reg. 1\(2\)](#), [Sch.](#) (with [reg. 9\(2\)](#))

#### The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004

3. The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004(2) are amended as follows—

- (a) in regulation 2(1), in the definition of “sell”, after the words “advertise for sale”, insert “, and “sold” (“*cael ei werthu*”) 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) [S.I. 2004/314 \(W. 32\)](#), amended by [S.I. 2005/3111 \(W. 231\)](#), [S.I. 2005/3254 \(W. 247\)](#), [S.I. 2007/2753 \(W. 232\)](#), [S.I. 2011/2131](#), [S.I. 2014/2303 \(W. 227\)](#).

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

(2) Section 32(1) to (8) of the Act (powers of entry) applies, with the modification (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 (punishment of offences) applies, with the modification 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), (3), (5) and (6) of the Act (appeals) applies, with the modification (in the case of section 37(1), (5) and (6)) 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 modification (in the case of section 39(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

Regulation 10A

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 has reasonable grounds for suspecting that a person is failing to comply with regulation 4 of the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004, 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.”

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 (Wales) Regulations 2004; 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;”.

## PART 3

### Modification of section 35

3. 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 10A(1) of the Processed Cereal-based Foods and Baby Foods for Infants and Young Children (Wales) Regulations 2004, is liable, on summary conviction, to a fine.”

## PART 4

### Modification of section 37(1), (5) and (6)

4. 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 (Wales) Regulations 2004, may apply to the magistrates’ court.”
5. 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.”
6. In section 37(6)—
  - (a) for “(3) or (4)” substitute “(1)”; and
  - (b) in paragraph (a), omit “or to the sheriff”.

## PART 5

### Modification of section 39(3)

7. 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 Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016*. (See end of Document for details)

**Commencement Information**  
I14 Sch. 3 para. 3 in force at 2.8.2016, see [reg. 1\(3\)](#)

**The Infant Formula and Follow-on Formula (Wales) Regulations 2007**

<sup>F8</sup>4. ....

**F8** Sch. 3 para. 4 revoked (22.2.2020 for all purposes except in respect of infant formula and follow-on formula manufactured from protein hydrolysates and 22.2.2021 in so far as not already in force) by [The Infant Formula and Follow-on Formula \(Wales\) Regulations 2020 \(S.I. 2020/89\)](#), [reg. 1\(2\)](#), [Sch. 3](#) (with [reg. 5\(2\)\(3\)](#))

**The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) Regulations 2009**

5. The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) Regulations 2009(3) are amended as follows—

(a) after regulation 3, insert—

**“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 Part 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 modification (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 (punishment of offences) applies, with the modification 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), (3), (5) and (6) of the Act (appeals) applies, with the modification (in the case of section 37(1), (5) and (6)) 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 modification (in the case of section 39(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).”;

(3) [S.I. 2009/3254 \(W. 283\)](#).

- (b) in the title of the Schedule, in place of “The Schedule” substitute “Schedule 1”;
- (c) for the shoulder note to Schedule 1 substitute “Regulations 2(1), 3(1), and 3A(1) and (2)”;  
and
- (d) after Schedule 1, insert—

“SCHEDULE 2

Regulation 3A

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 has reasonable grounds for suspecting that a person is failing to comply with the provisions specified in Schedule 1 of the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) Regulations 2009, 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.”

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 the provisions specified in Schedule 1 of the Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) 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;”.

PART 3

Modification of section 35

3. In section 35 (punishment of offences), after subsection (1), insert—

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

“(1A) 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) (Wales) Regulations 2009, is liable, on summary conviction, to a fine.”

## PART 4

### Modification of section 37(1), (5) and (6)

4. 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) (Wales) Regulations 2009, may apply to the magistrates’ court.”

5. 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.”

6. In section 37(6)—

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

## PART 5

### Modification of section 39(3)

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

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**Commencement Information**

**I15** Sch. 3 para. 5 in force at 2.8.2016, see **reg. 1(3)**

**Changes to legislation:**

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