

### SCHEDULE 3

Regulation 6

#### Amendments of statutory instruments

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

(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).

---

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

*Status: This is the original version (as it was originally made).*

(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) 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;”.
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—

“(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

*Status: This is the original version (as it was originally made).*

- (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 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”.

2. The Medical Food (England) Regulations 2000(2) are amended as follows—

- (a) at the end of the definition of “sell” in regulation 2, insert “, and “sold” is to be construed accordingly”;
- (b) after regulation 5, insert—

#### **“Application of the improvement notice provisions of the Act**

5A.—(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 the Schedule, for the purposes of—

- (a) enabling an improvement notice to be served on a person requiring the person to secure compliance with regulation 3(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 the Schedule, 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 regulation 3(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 regulation 3(1).

(3) Section 35 of the Act applies, with the modifications specified in Part 3 of the Schedule, 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 the Schedule, 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 the Schedule,

---

(2) S.I. 2000/845, amended by S.I. 2007/3521, 2011/3012; there are other amending instruments that are not relevant.

for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph (1)(a).”; and

- (c) At the end of the Regulations, insert—

## “SCHEDULE

### 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 believing that a person is failing to comply with regulation 3(1) of the Medical Food (England) Regulations 2000, 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 3(1) of the Medical Food (England) Regulations 2000; 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 5A(1) of the Medical Food (England) Regulations 2000, 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 5A(1) of, and Part 1 of the Schedule to, the Medical Food (England) Regulations 2000, 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—

“(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 5A(1) of, and Part 1 of the Schedule to, the Medical Food (England) Regulations 2000, the First-tier Tribunal may 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”.

**3.** The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003(3) 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—

---

(3) S.I. 2003/3207, amended by S.I. 2007/2591, 2011/2131, 2014/1855.

**“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 in England 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) 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;

*Status: This is the original version (as it was originally made).*

- (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—



“(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 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”.

4. The Infant Formula and Follow-on Formula (England) Regulations 2007 are amended as follows—

- (a) in regulation 28 for “24, 25, 26 or 27”, substitute “24 or 25”;
- (b) after regulation 28, insert—

#### **“Application of the improvement notice provisions of the Act**

**28A.**—(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 the Schedule, 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 3(1) and (2); 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 the Schedule, 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 regulation 3 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 3.

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

*Status: This is the original version (as it was originally made).*

(4) Section 37(1) and (6) of the Act (appeals) applies, with the modifications specified in Part 4 of the Schedule, 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 the Schedule, for the purpose of dealing with appeals against a decision to serve a notice referred to in paragraph (1)(a).”; and

(c) At the end of the Regulations, insert—

## “SCHEDULE

### 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 3 of the Infant Formula and Follow-on Formula (England) Regulations 2007, 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 3 of the Infant Formula and Follow-on Formula (England) Regulations 2007; 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 28A(1) of the Infant Formula and Follow-on Formula (England) Regulations 2007, 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 28A(1) of, and Part 1 of the Schedule to, the Infant Formula and Follow-on Formula (England) Regulations 2007, 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—

“(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 28A(1) of, and Part 1 of the Schedule to, the Infant Formula and Follow-on Formula (England) Regulations 2007, the First-tier Tribunal may 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”.

*Status: This is the original version (as it was originally made).*

5. The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (England) Regulations 2009(4) 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 the Schedule, 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 in England 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

---

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

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) 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 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—

*Status: This is the original version (as it was originally made).*

“(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 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 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”.