

SCHEDULE 3

Amendments to statutory instruments

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(1) 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) 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—

(1) 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).

“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”.

Commencement Information

II Sch. 3 para. 3 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, Paragraph 3.