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WELSH STATUTORY INSTRUMENTS

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**2020 No. 89**

**The Infant Formula and Follow-  
on Formula (Wales) Regulations 2020**

**Application of provisions of the Act**

4.—(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 that person to secure compliance with any specified EU law requirement; and
- (b) making a failure to comply with a notice referred to in sub-paragraph (a) an offence.

(2) Section 32(1) to (8) of the Act<sup>(1)</sup> (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 a specified EU law requirement is, or has been, sold; and
- (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of a specified EU law requirement.

(3) Section 35 of the Act (punishment of offences) applies, with the modifications specified in Part 3 of Schedule 2, for the purpose of specifying the punishment of an offence committed under section 10(2) as applied by paragraph (1)(b).

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

(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).

(6) The provisions of the Act specified in paragraph (7) (“the paragraph (7) provisions”) apply, with the modifications specified in Part 6 of Schedule 2, for the purposes of these Regulations insofar as they relate to the provisions of the Act specified in and modified by paragraphs (1) to (5).

(7) The provisions of the Act specified for the purposes of this paragraph are—

- (a) section 3 (presumptions that food intended for human consumption);
- (b) section 20 (offences due to fault of another person);
- (c) section 21<sup>(2)</sup> (defence of due diligence);
- (d) section 22 (defence of publication in the course of business);
- (e) section 29 (procurement of samples);
- (f) section 30<sup>(3)</sup> (analysis etc. of samples);

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<sup>(1)</sup> There are amendments to section 32(5) and (6), but none are relevant.

<sup>(2)</sup> Section 21 was amended by [S.I. 2004/3279](#).

<sup>(3)</sup> Section 30 was amended by paragraphs 7 and 8 of Schedule 5 to the 1999 Act.

- (g) section 33(4) (obstruction etc. of officers);
- (h) section 36 (offences by bodies corporate);
- (i) section 36A(5) (offences by Scottish partnerships);
- (j) section 44 (protection of officers acting in good faith);
- (k) section 53 (general interpretation);

and any reference in the paragraph (7) provisions to a section of the Act, including a reference to “any of the preceding provisions of this Part”, is to be read as a reference to such sections of the Act that apply by virtue of, and with the modifications made by, these Regulations.

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(4) Section 33 was amended by paragraph 3(1) and (4) of the Schedule to the Food (Scotland) Act 2015 (asp 1).  
(5) Section 36A was inserted by paragraph 16 of Schedule 5 to the 1999 Act.