

## [<sup>F1</sup>SCHEDULE 9

### Modification of the improvement notice provisions of the Act

#### Textual Amendments

- F1** Sch. 9 inserted (20.7.2016) by The Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016 (S.I. 2016/688), reg. 1(3), **Sch. 3 para. 3(c)** (as amended (1.3.2017) by The Food for Specific Groups (Information and Compositional Requirements) (England) (Amendment) Regulations 2017 (S.I. 2017/62), regs. 1(3), **4**)

## PART 1

### Modification of section 10(1)

1. For section 10(1) (improvement notices) substitute—

“(1) If an authorised officer of an enforcement authority <sup>F2</sup>... 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) [<sup>F3</sup>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 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.”.

#### Textual Amendments

- F2** Words in Sch. 9 Pt. 1 para. 1 omitted (22.2.2020) by virtue of The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020 (S.I. 2020/43), reg. 1(1), **Sch. 5 para. 3(2)(a)(i)**
- F3** Words in Sch. 9 Pt. 1 para. 1 substituted (22.2.2020) by The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020 (S.I. 2020/43), reg. 1(1), **Sch. 5 para. 3(2)(a)(ii)**

## 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-

**Changes to legislation:** There are currently no known outstanding effects for the The Processed Cereal-based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003, SCHEDULE 9. (See end of Document for details)

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-

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based Foods and Baby Foods for Infants and Young Children (England) Regulations 2003, the First-tier Tribunal may [<sup>F4</sup>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.”

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**Textual Amendments**

- F4** Words in Sch. 9 Pt. 5 para. 10 substituted (22.2.2020) by The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020 (S.I. 2020/43), reg. 1(1), **Sch. 5 para. 3(2)(b)**

11. in section 39(3), omit “for want of prosecution”.]

**Changes to legislation:**

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