

## SCHEDULE 4

Regulation 12

### Application and modification of 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 a provision specified in subsection (1A), 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 with the relevant provision;
- (b) specify the matters which constitute the person’s failure so to 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 measures that are at least equivalent to them, within such period as may be specified in the notice.

#### (1A) The provisions are—

- (a) a provision of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers<sup>(1)</sup> specified in entry 1, 3, 5 to 11, 23 to 27, 29, 31 or 66 of the table in Part 2 of Schedule 5 to the Food Information (Wales) Regulations 2014 (as read with regulation 2(3) of, and Schedule 1 to, those Regulations), except to the extent that the provision applies to the mandatory particular relating to net quantity required by Article 9(1)(e) of Regulation (EU) No 1169/2011, as read with Article 23 of, and Annex IX to, that Regulation;
- (b) a provision of Regulation (EU) No 1169/2011 of the European Parliament and of the Council specified in entry 2, 67 or 68 of the table in Part 2 of Schedule 5 to the Food Information (Wales) Regulations 2014 (as read with regulation 2(3) of, and Schedule 1 to, those Regulations), except to the extent that the provision applies to food information relating to quantity;
- (c) any other provision of Regulation (EU) No 1169/2011 of the European Parliament and of the Council specified in Schedule 5 to the Food Information (Wales) Regulations 2014 (as read with regulation 2(3) of, and Schedule 1 to, those Regulations); or
- (d) any of the following provisions of the Food Information (Wales) Regulations 2014—
  - (i) regulation 5(3), (4) or (5);
  - (ii) regulation 6(1) or (4);
  - (iii) regulation 7(1), (4) or (5); or
  - (iv) regulation 8(1) or (3).”

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(1) OJ No L 304, 22.11.2011, p 18, last amended by Commission Delegated Regulation (EU) No 78/2014 (OJ No L 27, 30.1.2014, p 7).

## 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 is or has been on the premises any contravention of—
- (i) a provision of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers specified in entry 1, 3, 5 to 11, 23 to 27, 29, 31 or 66 of the table in Part 2 of Schedule 5 to the Food Information (Wales) Regulations 2014 (as read with regulation 2(3) of, and Schedule 1 to, those Regulations), except to the extent that the provision applies to the mandatory particular relating to net quantity required by Article 9(1)(e) of Regulation (EU) No 1169/2011, as read with Article 23 of, and Annex IX to, that Regulation;
  - (ii) a provision of Regulation (EU) No 1169/2011 of the European Parliament and of the Council specified in entry 2, 67 or 68 of the table in Part 2 of Schedule 5 to the Food Information (Wales) Regulations 2014 (as read with regulation 2(3) of, and Schedule 1 to, those Regulations), except to the extent that the provision applies to food information relating to quantity; and
  - (iii) any other provision of Regulation (EU) No 1169/2011 of the European Parliament and of the Council specified in Schedule 5 to the Food Information (Wales) Regulations 2014 (as read with regulation 2(3) of, and Schedule 1 to, those Regulations); and
- (b) to enter any business premises, whether within or outside of the authority’s area, for the purpose of ascertaining whether there is on the premises any evidence of any contravention within that area of any such provisions;”.

## PART 3

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

3. 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 12(1) of, and Part 1 of Schedule 4 to, the Food Information (Wales) Regulations 2014, may appeal to the magistrates’ court.”
4. In section 37(6)—
- (a) for “(3) or (4)” substitute “(1)”, and
  - (b) in paragraph (a), omit “or to the sheriff”.

## PART 4

### Modification of section 39(1) and (3)

5. 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 12(1) of, and Part 1 of Schedule 4 to, the Food Information (Wales) Regulations 2014, the court 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 court may in the circumstances think fit.”

6. In section 39(3) omit “for want of prosecution”.

## PART 5

### Application and modification of other provisions of the Act

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Food Information (Wales) Regulations 2014”
Section 20 (offences due to fault of another person)	For “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 12(1) of the Food Information (Wales) Regulations 2014, or regulation 10 of those Regulations”
Section 21(2) (defence of due diligence)	In subsection (1), for “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 12(1) of the Food Information (Wales) Regulations 2014, or regulation 10 of those Regulations”  In subsection (2), for “section 14 or 15 above” substitute “regulation 10 of the Food Information (Wales) Regulations 2014”
Section 22 (defence of publication in the course of business)	For “any of the preceding provisions of this Part” substitute “regulation 10 of the Food Information (Wales) Regulations 2014”
Section 29 (procurement of samples)	In paragraph (b)(ii), after “under section 32 below”, insert “, including under section 32 as applied and modified by regulation 12(2) of, and Part 2 of Schedule 4 to, the Food Information (Wales) Regulations 2014”
Section 30(8) (which relates to evidence of certificates given by a food analyst or examiner)	For “this Act” substitute “the Food Information (Wales) Regulations 2014”
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” (in each place occurring) substitute “the Food Information (Wales) Regulations 2014”

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

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

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Act</i>	<i>Modifications</i>
Section 35(1)(3) and (2) (punishment of offences)	<p>In subsection (1), after “section 33(1) above”, insert “, as applied and modified by regulation 12(5) of, and Part 5 of Schedule 4 to, the Food Information (Wales) Regulations 2014,”</p> <p>After subsection (1), insert—</p> <p>“(1A) A person guilty of an offence under section 10(2), as applied by regulation 12(1) of the Food Information (Wales) Regulations 2014, shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”</p> <p>In subsection (2)—</p> <p>(a) for “any other offence under this Act” substitute “an offence under section 33(2), as applied by regulation 12(5) of, and Part 5 of Schedule 4 to, the Food Information (Wales) Regulations 2014,”; and</p> <p>(b) in paragraph (b), for “relevant amount” substitute “statutory maximum”</p>
Section 36 (offences by body corporate)	In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 12(1) of the Food Information (Wales) Regulations 2014, or regulation 10 of those Regulations,”
Section 36A(4) (offences by Scottish partnerships)	For “this Act” substitute “section 10(2), as applied by regulation 12(1) of the Food Information (Wales) Regulations 2014, or regulation 10 of those Regulations,”
Section 44 (protection of officers acting in good faith)	For “this Act” (in each place occurring) substitute “the Food Information (Wales) Regulations 2014”

(3) Section 35(1) is amended by paragraph 42 of Schedule 26 to the Criminal Justice Act 2003 (c. 44) from a date to be appointed.

(4) Section 36A was inserted by paragraph 16 of Schedule 5 to the Food Standards Act 1999 (c. 28).