

Food Information for Consumers Regulations

How will they be enforced?

Food Information for Consumers Regulations

- Enforcement of the new regulations
- Current enforcement and case studies

Food Information for Consumers Regulations

- As an EC Regulation it is directly applicable
- As a matter of law, businesses will have to comply
- However the Government has to put in place domestic legislation in order to enforce Regulation 1169/2011
- Food Information Regulations 2013
- Still in draft

Food Information for Consumers Regulations

- Intended that the frontline measure for the majority of the provisions will be an improvement notice
- Sits between informal measures and prosecution
- Does apply to breaches of article 9 (1) and article 44
- Improvement Notice will set out
 - Officer's grounds for believing that the person is failing to comply and what in practice they are doing or failing to do
 - Specify what provision or provisions have been breached

Food Information for Consumers Regulations

- Specify what measures need to be taken by the person in order to secure compliance
- The date by which the person has put the measures in place
- The right of appeal

Food Information for Consumers Regulations

- Any person who fails to comply with Improvement Notice commits an offence
- A Notice may require the food business operator to remove products from sale until the contravention has been addressed
- Over-labelling “or over-stickering” of the product label with the corrected version maybe required
- Any person served with an Improvement Notice may appeal against that Notice to the First Tier Tribunal

Offences

- Failing to comply with an Improvement Notice
- Failing to comply with the requirements of the FIC relating to the provision of information on ingredients causing food allergies and/intolerances ie Article 9 (1)(c), Article 21(1)(a), Article 44(1a) (non – prepacked food)
- A person found guilty of an offence is liable to a fine not exceeding level 5 on the Standard Scale (currently £5,000)

Enforcement Process

- Nothing to indicate it will be different than current procedure
- Attend premises on the basis of a “tip off” or part of a routine visit
- Consideration of Improvement Notice
- Collation of evidence
- Interview under caution
- Consideration of evidence
- Summons issued in Magistrates Court

Current Enforcement

- Offences under the Food Safety Act 1990
- “not of nature demandednot gluten free as described” Section 14(1)
- “falsely described” Section 15 (1)
- No reference to EC Reg 41/2009 : Composition and labelling of Foodstuffs suitable for those intolerant to Gluten
- Not revoked so could still prosecute under this Act.
- No Notices, straight to prosecution.
- Abarbistro – conditional discharge

Jamie's Italian

- Jamie's Italian pleaded guilty to "selling food not of the nature and quality demanded by the purchaser" after a coeliac customer was not served the gluten-free meal she requested.
- Kristy Richardson is understood to have asked staff three times for non-gluten tagliatelle at Jamie's Italian in Portsmouth, when she visited in 2011.
- However a "miscommunication" at the restaurant meant she was still served normal pasta, which left her vomiting and ill for a number of months.
- Richardson, who is terminally ill and awaiting a heart and lung, had to be temporarily removed from the transplant list until her condition improve
- Fine of £8500, costs £9212.10

General Points Concerning Enforcement

- Lack of resources
- Lack of training
- Educated consumer
- Insurance for defence of criminal prosecutions