
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 439

The Flavourings in Food (Scotland) Regulations 2010

Application of various sections of the Food Safety Act 1990

5.—(1) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part of it is to be construed as a reference to these Regulations:—

- (a) section 20 (offences due to fault of another person);
- (b) section 21 (defence of due diligence)(1) with the modification that—
 - (i) subsections (2) to (4) shall apply in relation to an offence of contravening regulation 3(2)(a) to (g) as they apply in relation to an offence under sections 14 or 15; and
 - (ii) in subsection (4) the references to “sale” are deemed to include references to “placing on the market”;
- (c) section 30(8) (which relates to documentary evidence);
- (d) section 35(1) (punishment of offences), in so far as it relates to offences under section 33(1) as applied by paragraph (3)(b);
- (e) section 35(2) and (3)(2), in so far as it relates to offences under section 33(2) as applied by paragraph (3)(c);
- (f) section 36 (offences by bodies corporate); and
- (g) section 36A (offences by Scottish partnerships)(3).

(2) In the application of section 32 of the Act (powers of entry) for the purposes of these Regulations, the references in subsection (1) to the Act are to be construed as including references to the EU Regulation.

(3) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act is to be construed as including a reference to the EU Regulation and these Regulations:—

- (a) section 3 (presumption that food is intended for human consumption) with the modification that the references to “sold” and “sale” are deemed to include references to “placed on the market” and “placing on the market” respectively;
- (b) section 33(1) (obstruction etc. of officers);
- (c) section 33(2), with the modification that the reference to “any such requirement as is mentioned in subsection (1)(b) above” is deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (b); and
- (d) section 44 (protection of officers acting in good faith).

(4) Section 34 of the Act (time limit for prosecutions) applies to offences under regulation 3 as it applies to offences punishable under section 35(2) of the Act.

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

(2) Section 35(3) was amended by [S.I. 2004/3279](#).

(3) Section 36A was inserted by paragraph 16 of Schedule 5 to the Food Standards Act [1999 \(c.28\)](#).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*
