



Food Act 1984

1984 CHAPTER 30

PART VI

ADMINISTRATION, ENFORCEMENT AND LEGAL PROCEEDINGS

Legal proceedings

92 Offences triable either way.

- (1) A person guilty of an offence to which this section applies is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or to both.
- (2) This section applies to any offence under this Act, except an offence—
 - (a) under section 65, or
 - (b) under any provision of this Act specified in section 93(3),but in the case of an offence under section 5(3) the liability under paragraph (a) of subsection (1) of this section includes a term of imprisonment not exceeding 3 months, or both such a term and the fine mentioned in that paragraph.

93 Summary offences.

- (1) Any offence to which this section applies is triable summarily.
- (2) The offences to which this section applies are—
 - (a) an offence under any provision of this Act specified in subsection (3);
 - [^{F1}(b) an offence under regulations made under this Act other than an offence which by virtue of the regulations is triable either summarily or on indictment;
 - (c) an offence under byelaws made under this Act;
 - (d) an offence under an order made under section 5.]
- (3) The provisions of this Act mentioned in paragraph (a) of subsection (2) are—

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- [^{F2}(a) section 18(4);
- (b) section 27(1);
- (c) section 28(1);
- (d) section 28(3);
- (e) section 31(1);]
- (f) section 53(4);
- (g) section 56(1);
- [^{F2}(h) section 58;
- (j) section 87(5);
- (k) section 91(1); and
- (l) section 91(3).]

- (4) This section applies to Northern Ireland so far as it relates to those regulations and orders made under Part I which apply to Northern Ireland, and to the enforcement and execution of those regulations and orders.

Textual Amendments

- F1** S. 93(2)(b)–(d) repealed (E.W.) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), ss. 54, 59(4), [Sch. 5](#) (but *(prosp.)* in so far as relating to s. 18(4) of this Act: [S.I. 1990/2372](#), [art. 2](#))
- F2** S. 93(3)(a)–(e)(h)–(l) repealed (E.W.) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), ss. 54, 59(4), [Sch. 5](#) (but *(prosp.)* in so far as relating to s. 18(4) of this Act: [S.I. 1990/2372](#), [art. 2](#))

94 Offences by corporations.

- [^{F3}(1) Where an offence under this Act, or any regulations or order made under this Act, which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) any director, manager, secretary or other similar officer of the body corporate, or
 - (b) any person who was purporting to act in any such capacity,
- he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.]

- (2) ^{F4}

Textual Amendments

- F3** S. 94(1) except as regards offences under Part III of this Act repealed by [Food Safety Act 1990 \(c. 16, SIF 53: 1, 2\)](#), ss. 54, 59(4), [Sch. 5](#)
- F4** S. 94(2) repealed by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), ss. 54, 59(4), [Sch. 5](#)

95 Prosecutions.

- (1) No prosecution for an offence under this Act or regulations made under this Act which is triable either summarily or on indictment shall be begun after the expiry of—
- (a) three years from the commission of the offence, or
 - (b) one year from its discovery by the prosecutor,

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whichever is the earlier.

- [^{F5}(2) Where a sample has been procured under this Act, no prosecution in respect of the article or substance sampled shall be begun after the expiry of—
- (a) 28 days, in the case of a sample of milk,
 - (b) two months, in any other case,
- beginning with the date on which the sample was procured.
- (3) Subsection (2) does not apply where the justice of the peace before whom the information is laid certifies that he is satisfied on oath that having regard to the circumstances of the particular case it was not practicable to lay the information at an earlier date; but a prosecution in respect of a sample of milk shall not in any case be begun after the expiry of 42 days beginning with the date on which the sample was procured.
- (4) Where a sample has been procured under this Act, any proceedings in respect of the article or substance sampled shall be taken before a court having jurisdiction in the place where the sample was procured; but—
- (a) where a sample procured within one area is for the purposes of this Act deemed to have been procured within another area, proceedings may, at the prosecutor's option, be taken either before a court having jurisdiction in the area within which the sample was procured, or before a court having jurisdiction in the area within which it is deemed to have been procured; and
 - (b) where the article or substance sampled was sold and actually delivered to the purchaser, proceedings may, if the prosecutor so elects, be taken before a court having jurisdiction at the place of delivery.
- (5) In any proceedings under this Act in respect of an article or substance sampled—
- (a) the summons shall not be made returnable less than 14 days from the day on which it is served; and
 - (b) a copy of any certificate of analysis obtained on behalf of the prosecutor, and of any certificate given by a justice under subsection (3), shall be served with the summons.
- (6) In any proceedings under this Act, where a sample has been procured in such circumstances that its division into parts is required by this Act, the part of the sample retained by the person who procured it shall be produced at the hearing.
- (7) Any regulations or order made under this Act and extending to Northern Ireland shall provide for applying, in relation to offences under them, the provisions—
- (a) of this section, or
 - (b) of any corresponding Northern Ireland enactment,
- subject to any such modifications or adaptations as may be specified in the regulations or order.
- (8) Notwithstanding subsection (1), a person is not liable to be prosecuted for an offence under this Act or regulations made under this Act which was committed before 1st January 1983.]

Textual Amendments

F5 S. 95(2)–(8) repealed (E.W.) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), ss. 54, 59(4), [Sch. 5](#)

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96 F6

Textual Amendments
F6 S. 96 repealed by Food Safety Act 1990 (c. 16, SIF 53:1, 2), ss. 54, 59(4), Sch. 5

[^{F7}97] **Evidence of analysis.**

- (1) In any proceedings under this Act, the production by one of the parties—
 - (a) of a document purporting to be a certificate of a public analyst in the form prescribed under section 79(5), or
 - (b) of a document supplied to him by the other party as being a copy of such a certificate,
 shall be sufficient evidence of the facts stated in it, unless, in the first-mentioned case, the other party requires that the analyst shall be called as a witness.

- (2) In any such proceedings, if a sample of milk has been taken by an officer of one authority at the request of an officer of another authority, a document—
 - (a) which purports to be a certificate signed by the officer who took the sample, and
 - (b) which states that the provisions of this Act with respect to the manner in which samples are to be dealt with were complied with,
 shall, if a copy of it has been served on the defendant with the summons, be sufficient evidence of compliance with those provisions, unless the defendant requires that the officer shall be called for as a witness.

- (3) In any such proceedings, if a defendant intends—
 - (a) to produce a certificate of a public analyst, or
 - (b) under subsection (1), to require that a public analyst shall be called as a witness, or
 - (c) under subsection (2), to require that a sampling officer shall be called as a witness,
 notice of his intention, together, in the first-mentioned case, with a copy of the certificate, shall be given to the other party at least three clear days before the day on which the summons is returnable, and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on such terms as it thinks proper.

- (4) Regulations made under section 4 or section 7 may prescribe a method of analysis for the purpose of ascertaining the presence in, or absence from, any food of any substance specified in the regulations, or the quantity of any such substance which is present in any food; and in any proceedings under this Act—
 - (a) for a contravention of any regulations made under either of those sections, or
 - (b) for an offence under section 2 or section 6,
 in respect of any food alleged to contain, or not to contain, any substance specified as mentioned above, or any particular quantity of such a substance, evidence of an analysis carried out by the prescribed method shall be preferred to evidence of any other analysis or test.

- (5) Subsection (4) applies to Northern Ireland so far as it relates—

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- (a) to those regulations and orders made under Part I which apply to Northern Ireland, and
- (b) to the enforcement and execution of those regulations and orders, and accordingly that subsection is modified by the omission of the words “under this Act” and paragraph (b).]

Textual Amendments

F7 S. 97 repealed (E.W.) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), ss. 54, 59(4), [Sch. 5](#)

98–109 **F8**

Textual Amendments

F8 Ss. 98–109 repealed by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), ss. 54, 59(4), [Sch. 5](#)

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