



Food Act 1984

1984 CHAPTER 30

PART II

MILK, DAIRIES AND CREAM SUBSTITUTES

Compulsory use of special designations in specified areas, and licences for specified areas

46 Restriction on liability under s. 45.

- (1) Such a breach of condition as is mentioned in section 45, constituted by an act or omission for which the holder of the licence is liable to any punishment imposed by or under any enactment other than that section, does not render the holder of the licence guilty of an offence under that section.
- (2) Such a breach of condition as is mentioned in section 45 does not render the holder of the licence guilty of an offence under that section unless it was the later, or a later, of two or more such breaches, occurring within a period of 12 months, of conditions either of that licence or of that licence and a former licence by way of renewal of which that licence was granted, and was committed either—
 - (a) after the licensing authority had given him notice in writing as to an earlier of those two or more breaches informing him of his being alleged to have committed it, and warning him of the liability to prosecution imposed by section 45; or
 - (b) after he had been convicted of an offence under that section because of an earlier of those two or more breaches.
- (3) In the case of any prosecution in respect of such a breach of condition as is mentioned in section 45 which would otherwise render the holder of the licence guilty of an offence under that section, it is a defence for him to prove the following matters (either as to that breach, or as to the earlier breach relied on for the purpose of subsection (2) of this section, unless it is one under which he has been convicted of such an offence)—
 - (a) that neither he nor any servant or agent of his

Changes to legislation: *Food Act 1984, Section 46 is up to date with all changes known to be in force on or before 20 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (i) did or knew of the doing of, any act that constituted the breach or can reasonably be regarded as having been the cause or among the causes of it, or
 - (ii) omitted to do, or knew of an omission to do, any act the omission of which constituted the breach, or the doing of which can reasonably be regarded as a precaution that would have prevented it; and
 - (b) if the breach was in connection with milk that had been sold to him, or had been delivered to him after being subjected to a process to which it was required to be subjected as a condition of the use of the special designation to which his licence related, that that designation—
 - (i) was used for the purpose of the sale to him or in connection with the delivery to him, as the case may be, and
 - (ii) was so used without any breach, discoverable by the exercise of reasonable diligence on the part of himself or any servant or agent of his, of any condition, relating to receptacles, to closing, to fastening or to marking, of a licence to use that designation held by the person who sold the milk to him or subjected it to the process, as the case may be.
- (4) Section 47 applies for the interpretation of this section.

Changes to legislation:

Food Act 1984, Section 46 is up to date with all changes known to be in force on or before 20 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act repealed by [2024 asp 11 sch. 2 Pt. 1](#)