



# Food Safety Act 1990

## 1990 CHAPTER 16

### PART III

#### ADMINISTRATION AND ENFORCEMENT

##### *Appeals*

#### **37 Appeals to magistrates' court or sheriff.**

- (1) Any person who is aggrieved by—
  - (a) a decision of an authorised officer of an enforcement authority to serve an improvement notice;
  - (b) a decision of an enforcement authority to refuse to issue such a certificate as is mentioned in section 11(6) or 12(8) above; or
  - (c) subject to subsection (2) below, a decision of such an authority to refuse, cancel, suspend or revoke a licence required by regulations under Part II of this Act,may appeal to a magistrates' court or, in Scotland, to the sheriff.
- (2) Subsection (1)(c) above shall not apply in relation to any decision as respects which regulations under Part II of this Act provide for an appeal to a tribunal constituted in accordance with the regulations.
- (3) The procedure on an appeal to a magistrates' court under subsection (1) above, or an appeal to such a court for which provision is made by regulations under Part II of this Act, shall be by way of complaint for an order, and the <sup>M1</sup>Magistrates' Courts Act 1980 shall apply to the proceedings.
- (4) An appeal to the sheriff under subsection (1) above, or an appeal to the sheriff for which provision is made by regulations under Part II of this Act, shall be by summary application.
- (5) The period within which such an appeal as is mentioned in subsection (3) or (4) above may be brought shall be—

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- (a) one month from the date on which notice of the decision was served on the person desiring to appeal; or
  - (b) in the case of an appeal under subsection (1)(a) above, that period or the period specified in the improvement notice, whichever ends the earlier;
- and, in the case of such an appeal as is mentioned in subsection (3) above, the making of the complaint shall be deemed for the purposes of this subsection to be the bringing of the appeal.
- (6) In any case where such an appeal as is mentioned in subsection (3) or (4) above lies, the document notifying the decision to the person concerned shall state—
- (a) the right of appeal to a magistrates' court or to the sheriff; and
  - (b) the period within which such an appeal may be brought.

**Modifications etc. (not altering text)**

- C1** S. 37 applied (with modifications) (2.9.2013) by [The Fish Labelling Regulations 2013 \(S.I. 2013/1768\)](#), regs. 1(1)(b), **8**
- C2** S. 37 applied (with modifications) (26.9.2013) by [The Fish Labelling \(Wales\) Regulations 2013 \(S.I. 2013/2139\)](#), regs. 1(2), **6**
- C3** S. 37(1)(6) applied (with modifications) (31.10.2013) by [The Food Additives, Flavourings, Enzymes and Extraction Solvents \(Wales\) Regulations 2013 \(S.I. 2013/2591\)](#), regs. 1, **8(1)**
- C4** S. 37(1)(6) applied (with modifications) (20.11.2013) by [The Fruit Juices and Fruit Nectars \(England\) Regulations 2013 \(S.I. 2013/2775\)](#), regs. 1(2), **18(1)**
- C5** S. 37(1)(6) applied (with modifications) (20.11.2013) by [The Fruit Juices and Fruit Nectars \(Wales\) Regulations 2013 \(S.I. 2013/2750\)](#), regs. 1(2), **18(1)** (with reg. 22(2))
- C6** S. 37(1)(6) applied (with modifications) (19.9.2014 for specified purposes, 13.12.2014 for specified purposes) by [The Food Information \(Wales\) Regulations 2014 \(S.I. 2014/2303\)](#), reg. 1(3)(4)(b)(5)(b)12(3), **Sch. 4 Pt. 3** (with reg. 12(6))
- C7** S. 37(1)(6) applied (with modifications) (13.12.2014) by [The Products Containing Meat etc. \(England\) Regulations 2014 \(S.I. 2014/3001\)](#), reg. 7(3) (with reg. 3)
- C8** S. 37(1)(6) applied (with modifications) (1.4.2015) by [The Country of Origin of Certain Meats \(England\) Regulations 2015 \(S.I. 2015/518\)](#), regs. 1(1), 6(3), **Sch. para. 3**
- C9** S. 37(1)(6) applied (with modifications) (6.4.2015) by [The Condensed Milk and Dried Milk \(England\) Regulations 2015 \(S.I. 2015/675\)](#), regs. 1(1), 6, **Sch. 3 Pt. 2**
- C10** S. 37(1)(6) applied (with modifications) (24.6.2015) by [The Honey \(England\) Regulations 2015 \(S.I. 2015/1348\)](#), reg. 1(1), **Sch. 2** (with regs. 4, 5)
- C11** S. 37(1)(c) applied (1.1.1993 for certain purposes and 15.1.1993 otherwise) by S.I. 1992/3164, **regs. 1, 19(3)** (which S.I. was revoked (29.4.1998) by S.I. 1998/994, reg. 59(1), **Sch. 5**)  
S. 37(1)(c) applied (1.1.1993 for certain purposes and 15.1.1993 otherwise) by S.I. 1992/3163, **regs. 1, 18(3)** (which S.I. was revoked (29.4.1998) by S.I. 1998/994, reg. 59(1), **Sch. 5**)
- C12** S. 37(3)-(6) applied (with modifications) (1.4.1995) by S.I. 1995/539, **reg. 10(12)**  
S. 37(3)-(6) applied (with modifications) (9.5.1995) by S.I. 1995/1086, **regs. 4(7), 6(7), 8(6)**
- C13** S. 37(3)(5)(6) applied (E.) (21.5.2001) by S.I. 2001/1553, **reg. 6(2)**  
S. 37(3)(5)(6) applied (W.) (1.8.2001) by S.I. 2001/2219, **reg. 6(2)**
- C14** S. 37(3) applied (30.9.2003) by [Collagen and Gelatine \(Intra-Community Trade\) \(England\) Regulations 2003 \(S.I. 2003/1736\)](#), regs. 1, **7(2)**
- C15** S. 37(3)(5)(6) applied (31.12.2003) by [Collagen and Gelatine \(Intra-Community Trade\) \(England\) \(No.2\) Regulations 2003 \(S.I. 2003/3003\)](#), regs. 1(2), **9**
- C16** S. 37(3) applied (31.12.2003) by [Collagen and Gelatine \(Intra-Community Trade\) \(Wales\) Regulations 2003 \(S.I. 2003/3229\)](#), regs. 1(1), **7(2)**
- C17** S. 37(3)(5) applied (1.1.2006) by [Fishery Products \(Official Controls Charges\) \(England\) Regulations 2005 \(S.I. 2005/2991\)](#), regs. 1, **8(2)**

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- C18 S. 37(3) applied (1.1.2006) by The Fishery Products (Official Controls Charges) (Wales) Regulations 2005 (S.I. 2005/3297), regs. 1, **8(2)**
- C19 S. 37(3) applied (1.1.2007) by The Fishery Products (Official Controls Charges) (Wales) Regulations 2006 (S.I. 2006/3344), regs. 1, **8(2)**
- C20 S. 37(3) applied (1.1.2007) by Fishery Products (Official Controls Charges) (England) Regulations 2006 (S.I. 2006/2904), regs. 1, **8(2)**
- C21 S. 37(3) applied (with modifications) (22.8.2007) by Eggs and Chicks (England) Regulations 2007 (S.I. 2007/2245), regs. 1(2), **18(3)** (with reg. 1(4)(5))
- C22 S. 37(3) applied (1.1.2008) by Fishery Products (Official Controls Charges) (England) Regulations 2007 (S.I. 2007/3392), regs. 1, **8(2)**
- C23 S. 37(3) applied (1.1.2008) by The Fishery Products (Official Controls Charges) (Wales) Regulations 2007 (S.I. 2007/3462), regs. 1, **8(2)**
- C24 S. 37(3) applied (with modifications) (17.4.2009) by Eggs and Chicks (Wales) Regulations 2009 (S.I. 2009/793), regs. 1(2), **18(3)** (with reg. 1(4)(5))
- C25 S. 37(3) modified (14.9.2009) by Eggs and Chicks (England) Regulations 2009 (S.I. 2009/2163), regs. 1(1), **23(3)**
- C26 S. 37(3) applied (with modifications) (16.7.2010) by The Eggs and Chicks (Wales) Regulations 2010 (S.I. 2010/1671), regs. 1(1), **23(3)**
- C27 S. 37(4)-(6) applied (with modifications) (15.6.1995) by S.I. 1995/1372, **regs. 4(8), 8(5)** (with regs. 4(7), 6(7), 8(4) )  
S. 37(4)-(6) applied (S.) (21.5.2001) by S.S.I. 2001/169, **reg. 6(2)**
- C28 S. 37(4)(5)(6) applied (30.6.2003) by Collagen and Gelatine (Intra-Community Trade) (Scotland) Regulations 2003 (S.S.I. 2003/299), regs. 1(1), **7(2)**
- C29 S. 37(4)(5)(6) applied (31.12.2003) by Collagen and Gelatine (Intra-Community Trade) (Scotland) (No.2) Regulations 2003 (S.S.I. 2003/568), regs. 1(1), **7(2)**
- C30 S. 37(4)-(6) applied (with modifications) (1.1.2006) by Fishery Products (Official Controls Charges) (Scotland) Regulations 2005 (S.S.I. 2005/597), regs. 1(1), **8(2)** (with reg. 8(1))
- C31 S. 37(4)(5)(6) applied (S.) (1.1.2007) by Fisheries Products (Official Controls Charges) (Scotland) Regulations 2006 (S.S.I. 2006/579), regs. 1(1), **8(2)**
- C32 S. 37(4)-(6) applied (S.) (1.1.2008) by Fishery Products (Official Controls Charges) (Scotland) Regulations 2007 (S.S.I. 2007/537), regs. 1(1), **8(2)**
- C33 S. 37(5)(6) applied (30.9.2003) by Collagen and Gelatine (Intra-Community Trade) (England) Regulations 2003 (S.I. 2003/1736), regs. 1, **7(2)**
- C34 S. 37(5)(6) applied (31.12.2003) by Collagen and Gelatine (Intra-Community Trade) (Wales) Regulations 2003 (S.I. 2003/3229), regs. 1(1), **7(2)**
- C35 S. 37(5)(6) applied (1.1.2006) by The Fishery Products (Official Controls Charges) (Wales) Regulations 2005 (S.I. 2005/3297), regs. 1, **8(2)**
- C36 S. 37(5) applied (1.1.2006) by Fishery Products (Official Controls Charges) (England) Regulations 2005 (S.I. 2005/2991), regs. 1, **8(2)**
- C37 S. 37(5) applied (1.1.2007) by Fishery Products (Official Controls Charges) (England) Regulations 2006 (S.I. 2006/2904), regs. 1, **8(2)**
- C38 S. 37(5)(6) applied (1.1.2007) by The Fishery Products (Official Controls Charges) (Wales) Regulations 2006 (S.I. 2006/3344), regs. 1, **8(2)**
- C39 S. 37(5)(6) applied (with modifications) (22.8.2007) by Eggs and Chicks (England) Regulations 2007 (S.I. 2007/2245), regs. 1(2), **18(3)** (with reg. 1(4)(5))
- C40 S. 37(5)(6) applied (1.1.2008) by The Fishery Products (Official Controls Charges) (Wales) Regulations 2007 (S.I. 2007/3462), regs. 1, **8(2)**
- C41 S. 37(5)(6) applied (1.1.2008) by Fishery Products (Official Controls Charges) (England) Regulations 2007 (S.I. 2007/3392), regs. 1, **8(2)**
- C42 S. 37(5)(6) applied (with modifications) (17.4.2009) by Eggs and Chicks (Wales) Regulations 2009 (S.I. 2009/793), regs. 1(2), **18(3)** (with reg. 1(4)(5))
- C43 S. 37(5)(6) modified (14.9.2009) by Eggs and Chicks (England) Regulations 2009 (S.I. 2009/2163), regs. 1(1), **23(3)**

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- C44** S. 37(5) applied (with modifications) (16.7.2010) by [The Eggs and Chicks \(Wales\) Regulations 2010 \(S.I. 2010/1671\)](#), regs. 1(1), **23(3)**
- C45** S. 37(6) applied (1.1.2006) by [Fishery Products \(Official Controls Charges\) \(England\) Regulations 2005 \(S.I. 2005/2991\)](#), regs. 1, **8(2)**
- C46** S. 37(6) applied (1.1.2007) by [Fishery Products \(Official Controls Charges\) \(England\) Regulations 2006 \(S.I. 2006/2904\)](#), regs. 1, **8(2)**
- C47** S. 37(6) applied (with modifications) (16.7.2010) by [The Eggs and Chicks \(Wales\) Regulations 2010 \(S.I. 2010/1671\)](#), regs. 1(1), **23(3)**
- C48** S. 37(6) applied (with modifications) (20.11.2013) by [The Fruit Juices and Fruit Nectars \(Wales\) Regulations 2013 \(S.I. 2013/2750\)](#), regs. 1(2), **18(1)** (with reg. 22(2))
- C49** S. 37(6) applied (with modifications) (19.9.2014 for specified purposes, 13.12.2014 for specified purposes) by [The Food Information \(Wales\) Regulations 2014 \(S.I. 2014/2303\)](#), reg. 1(3)(4)(b)(5)(b)12(3), **Sch. 4 Pt. 3** (with reg. 12(6))
- C50** S. 37(6) applied (with modifications) (1.4.2015) by [The Country of Origin of Certain Meats \(England\) Regulations 2015 \(S.I. 2015/518\)](#), regs. 1(1), 6(3), **Sch. para. 3**
- C51** S. 37(6) applied (with modifications) (24.6.2015) by [The Honey \(England\) Regulations 2015 \(S.I. 2015/1348\)](#), reg. 1(1), **Sch. 2** (with regs. 4, 5)

#### Marginal Citations

**M1** 1980 c. 43.

### 38 Appeals to Crown Court.

A person who is aggrieved by—

- (a) any dismissal by a magistrates' court of such an appeal as is mentioned in section 37(3) above; or
- (b) any decision of such a court to make a prohibition order or an emergency prohibition order, or to exercise the power conferred by section 35(4) above, may appeal to the Crown Court.

### 39 Appeals against improvement notices.

- (1) On an appeal against an improvement notice, 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.
- (2) Where, apart from this subsection, any period specified in an improvement notice would include any day on which an appeal against that notice is pending, that day shall be excluded from that period.
- (3) An appeal shall be regarded as pending for the purposes of subsection (2) above until it is finally disposed of, is withdrawn or is struck out for want of prosecution.

#### Modifications etc. (not altering text)

- C52** S. 39 applied (with modifications) (2.9.2013) by [The Fish Labelling Regulations 2013 \(S.I. 2013/1768\)](#), regs. 1(1)(b), **9**
- C53** S. 39 applied (with modifications) (26.9.2013) by [The Fish Labelling \(Wales\) Regulations 2013 \(S.I. 2013/2139\)](#), regs. 1(2), **7**
- C54** S. 39 applied (with modifications) (20.11.2013) by [The Fruit Juices and Fruit Nectars \(England\) Regulations 2013 \(S.I. 2013/2775\)](#), regs. 1(2), **18(2)**

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- C55** S. 39 applied (with modifications) (20.11.2013) by [The Fruit Juices and Fruit Nectars \(Wales\) Regulations 2013 \(S.I. 2013/2750\)](#), regs. 1(2), **18(2)** (with reg. 22(2))
- C56** S. 39 applied (with modifications) (19.9.2014 for specified purposes, 13.12.2014 for specified purposes, 13.12.2016 in so far as not already in force) by [The Food Information \(Wales\) Regulations 2014 \(S.I. 2014/2303\)](#), regs. 1(3)(4)(b)(5)(b), 12(4), **Sch. 4 Pt. 4** (with reg. 12(6))
- C57** S. 39 applied (with modifications) (13.12.2014) by [The Products Containing Meat etc. \(England\) Regulations 2014 \(S.I. 2014/3001\)](#), reg. 7(4) (with reg. 3)
- C58** S. 39 applied (with modifications) (1.4.2015) by [The Country of Origin of Certain Meats \(England\) Regulations 2015 \(S.I. 2015/518\)](#), regs. 1(1), 6(4), **Sch. para. 4**
- C59** S. 39 applied (with modifications) (6.4.2015) by [The Condensed Milk and Dried Milk \(England\) Regulations 2015 \(S.I. 2015/675\)](#), regs. 1(1), 6, **Sch. 3 Pt. 3**
- C60** S. 39 applied (with modifications) (24.6.2015) by [The Honey \(England\) Regulations 2015 \(S.I. 2015/1348\)](#), reg. 1(1), **Sch. 2** (with regs. 4, 5)

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