



# Food Safety Act 1990

## 1990 CHAPTER 16

### PART IV

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Powers of Ministers*

#### **40 Power to issue codes of practice.**

- (1) For the guidance of food authorities, the Ministers or the Minister may issue codes of recommended practice as regards the execution and enforcement of this Act and of regulations and orders made under it; and any such code shall be laid before Parliament after being issued.
- (2) In the exercise of the functions conferred on them by or under this Act, every food authority—
  - (a) shall have regard to any relevant provision of any such code; and
  - (b) shall comply with any direction which is given by the Ministers or the Minister and requires them to take any specified steps in order to comply with such a code.
- (3) Any direction under subsection (2)(b) above shall, on the application of the Ministers or the Minister, be enforceable by mandamus or, in Scotland, by an order of the Court of Session under section 45 of the <sup>M1</sup>Court of Session Act 1988.
- (4) Before issuing any code under this section, the Ministers or the Minister shall consult with such organisations as appear to them or him to be representative of interests likely to be substantially affected by the code.
- (5) Any consultation undertaken before the commencement of subsection (4) above shall be as effective, for the purposes of that subsection, as if undertaken after that commencement.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: Food Safety Act 1990, Cross Heading: Powers of Ministers is up to date with all changes known to be in force on or before 06 June 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)*

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

**C1** S. 40 applied (with modifications) (1.4.1995) by S.I. 1995/614, **reg. 11**

**Marginal Citations**

**M1** 1988 c. 36.

**41 Power to require returns.**

Every food authority shall send to the Minister such reports and returns, and give him such information, with respect to the exercise of the functions conferred on them by or under this Act as he may require.

**42 Default powers.**

- (1) Where the Minister is satisfied that—
- (a) a food authority (in this section referred to as “the authority in default”) have failed to discharge any duty imposed by or under this Act; and
  - (b) the authority’s failure affects the general interests of consumers of food,
- he may by order empower another food authority (in this section referred to as “the substitute authority”), or one of his officers, to discharge that duty in place of the authority in default.
- (2) For the purpose of determining whether the power conferred by subsection (1) above is exercisable, the Minister may cause a local inquiry to be held; and where he does so, the relevant provisions of the Local Government Act shall apply as if the inquiry were a local inquiry held under that Act.
- (3) Nothing in subsection (1) above affects any other power exercisable by the Minister with respect to defaults of local authorities.
- (4) The substitute authority or the Minister may recover from the authority in default any expenses reasonably incurred by them or him under subsection (1) above; and for the purpose of paying any such amount the authority in default may—
- (a) raise money as if the expenses had been incurred directly by them as a local authority; and
  - (b) if and to the extent that they are authorised to do so by the Minister, borrow money in accordance with the statutory provisions relating to borrowing by a local authority.
- (5) In this section “the relevant provisions of the Local Government Act” means subsections (2) to (5) of section 250 of the <sup>M2</sup> Local Government Act 1972 in relation to England and Wales and subsections (3) to (8) of section 210 of the <sup>M3</sup> Local Government (Scotland) Act 1973 in relation to Scotland.

**Marginal Citations**

**M2** 1972 c. 70.

**M3** 1973 c. 65.

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

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