



# Food Safety Act 1990

## 1990 CHAPTER 16

### PART II

#### MAIN PROVISIONS

##### *Food safety*

#### **11 Prohibition orders**

- (1) If—
  - (a) the proprietor of a food business is convicted of an offence under any regulations to which this section applies; and
  - (b) the court by or before which he is so convicted is satisfied that the health risk condition is fulfilled with respect to that business,the court shall by an order impose the appropriate prohibition.
- (2) The health risk condition is fulfilled with respect to any food business if any of the following involves risk of injury to health, namely—
  - (a) the use for the purposes of the business of any process or treatment;
  - (b) the construction of any premises used for the purposes of the business, or the use for those purposes of any equipment; and
  - (c) the state or condition of any premises or equipment used for the purposes of the business.
- (3) The appropriate prohibition is—
  - (a) in a case falling within paragraph (a) of subsection (2) above, a prohibition on the use of the process or treatment for the purposes of the business;
  - (b) in a case falling within paragraph (b) of that subsection, a prohibition on the use of the premises or equipment for the purposes of the business or any other food business of the same class or description;
  - (c) in a case falling within paragraph (c) of that subsection, a prohibition on the use of the premises or equipment for the purposes of any food business.

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*Status: This is the original version (as it was originally enacted).*

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- (4) If—
- (a) the proprietor of a food business is convicted of an offence under any regulations to which this section applies by virtue of section 10(3)(b) above; and
  - (b) the court by or before which he is so convicted thinks it proper to do so in all the circumstances of the case,
- the court may, by an order, impose a prohibition on the proprietor participating in the management of any food business, or any food business of a class or description specified in the order.
- (5) As soon as practicable after the making of an order under subsection (1) or (4) above (in this Act referred to as a “prohibition order”), the enforcement authority shall—
- (a) serve a copy of the order on the proprietor of the business; and
  - (b) in the case of an order under subsection (1) above, affix a copy of the order in a conspicuous position on such premises used for the purposes of the business as they consider appropriate;
- and any person who knowingly contravenes such an order shall be guilty of an offence.
- (6) A prohibition order shall cease to have effect—
- (a) in the case of an order under subsection (1) above, on the issue by the enforcement authority of a certificate to the effect that they are satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the business;
  - (b) in the case of an order under subsection (4) above, on the giving by the court of a direction to that effect.
- (7) The enforcement authority shall issue a certificate under paragraph (a) of subsection (6) above within three days of their being satisfied as mentioned in that paragraph; and on an application by the proprietor for such a certificate, the authority shall—
- (a) determine, as soon as is reasonably practicable and in any event within 14 days, whether or not they are so satisfied; and
  - (b) if they determine that they are not so satisfied, give notice to the proprietor of the reasons for that determination.
- (8) The court shall give a direction under subsection (6)(b) above if, on an application by the proprietor, the court thinks it proper to do so having regard to all the circumstances of the case, including in particular the conduct of the proprietor since the making of the order; but no such application shall be entertained if it is made—
- (a) within six months after the making of the prohibition order; or
  - (b) within three months after the making by the proprietor of a previous application for such a direction.
- (9) Where a magistrates' court or, in Scotland, the sheriff makes an order under section 12(2) below with respect to any food business, subsection (1) above shall apply as if the proprietor of the business had been convicted by the court or sheriff of an offence under regulations to which this section applies.
- (10) Subsection (4) above shall apply in relation to a manager of a food business as it applies in relation to the proprietor of such a business; and any reference in subsection (5) or (8) above to the proprietor of the business, or to the proprietor, shall be construed accordingly.

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- (11) In subsection (10) above “manager”, in relation to a food business, means any person who is entrusted by the proprietor with the day to day running of the business, or any part of the business.