



Food Safety Act 1990

1990 CHAPTER 16

PART II

MAIN PROVISIONS

Food safety

9 Inspection and seizure of suspected food.

- (1) An authorised officer of a food authority may at all reasonable times inspect any food intended for human consumption which—
- has been sold or is offered or exposed for sale; or
 - is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale;

and subsections (3) to (9) below shall apply where, on such an inspection, it appears to the authorised officer that any food fails to comply with food safety requirements.

- (2) The following provisions shall also apply where, otherwise than on such an inspection, it appears to an authorised officer of a food authority that any food is likely to cause food poisoning or any disease communicable to human beings.

- (3) The authorised officer may either—
- give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it—
 - is not to be used for human consumption; and
 - either is not to be removed or is not to be removed except to some place specified in the notice; or
 - seize the food and remove it in order to have it dealt with by a justice of the peace;

and any person who knowingly contravenes the requirements of a notice under paragraph (a) above shall be guilty of an offence.

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- (4) Where the authorised officer exercises the powers conferred by subsection (3)(a) above, he shall, as soon as is reasonably practicable and in any event within 21 days, determine whether or not he is satisfied that the food complies with food safety requirements and—
- (a) if he is so satisfied, shall forthwith withdraw the notice;
 - (b) if he is not so satisfied, shall seize the food and remove it in order to have it dealt with by a justice of the peace.
- (5) Where an authorised officer exercises the powers conferred by subsection (3)(b) or (4)(b) above, he shall inform the person in charge of the food of his intention to have it dealt with by a justice of the peace and—
- (a) any person who under section 7 or 8 above might be liable to a prosecution in respect of the food shall, if he attends before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses; and
 - (b) that justice of the peace may, but need not, be a member of the court before which any person is charged with an offence under that section in relation to that food.
- (6) If it appears to a justice of the peace, on the basis of such evidence as he considers appropriate in the circumstances, that any food falling to be dealt with by him under this section fails to comply with food safety requirements, he shall condemn the food and order—
- (a) the food to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and
 - (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the food.
- (7) If a notice under subsection (3)(a) above is withdrawn, or the justice of the peace by whom any food falls to be dealt with under this section refuses to condemn it, the food authority shall compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.
- (8) Any disputed question as to the right to or the amount of any compensation payable under subsection (7) above shall be determined by arbitration.
- (9) In the application of this section to Scotland—
- (a) any reference to a justice of the peace includes a reference to the sheriff and to a magistrate;
 - (b) paragraph (b) of subsection (5) above shall not apply;
 - (c) any order made under subsection (6) above shall be sufficient evidence in any proceedings under this Act of the failure of the food in question to comply with food safety requirements; and
 - (d) the reference in subsection (8) above to determination by arbitration shall be construed as a reference to determination by a single arbiter appointed, failing agreement between the parties, by the sheriff.

Modifications etc. (not altering text)

- C1** S. 9 extended (with modifications) (8.1.1992) by S.I. 1991/2843, **reg. 22(2)**
- C2** S. 9 applied: (9.4.1992) by S.I. 1992/496, **reg. 7(3)**; (31.12.1992) by S.I. 1992/3236, **reg. 11(3)**
 S. 9 applied (14.7.1993) by S.I. 1993/1520, **reg. 2(4)**
 S. 9 applied: (1.4.1994) by S.I. 1994/743, **reg. 8(3)**; (3.10.1994) by S.I. 1994/2328, **reg. 11(c)**

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- S. 9 applied: (9.5.1995) by S.I. 1995/1086, **reg. 20(4)**; (15.6.1995) by S.I. 1995/1372, **reg. 20(4)**
- S. 9 applied: (S.) (1.1.2003) by S.S.I. 2002/523, **reg. 5(3)**; (W.) (9.1.2003) by S.I. 2002/3157, **reg. 5(3)**; (E.) (13.1.2003) by S.I. 2002/3169, **reg. 5(3)**
- C3** S. 9 applied (with modifications): (20.9.1995) by S.I. 1995/2148, **reg. 17**; (1.1.1996) by S.I. 1995/3205, **reg. 14**
- S. 9 applied (with modifications): (5.7.1996) by S.I. 1996/1743, **reg. 5** (which S.I. was revoked (1.9.1996) by S.I. 1996/2097, **reg. 8**); (1.9.1996) by S.I. 1996/2097, **reg. 6**
- S. 9 applied (with modifications): (11.8.1997) by: S.I. 1997/1729, **reg. 34(2)**; S.I. 1997/1729, **reg. 34(3)**; (16.12.1997) by S.I. 1997/2959, **reg. 11**; (1.1.1998) by S.I. 1997/2965, **reg. 30** (with reg. 32)
- S. 9 applied (with modifications): (S.) (20.8.1999) by S.S.I. 1999/32, **art. 5(1)** and S.S.I. 1999/33, **art. 5(1)**; (S.) (17.12.1999) by S.S.I. 1999/186, **art. 9**; (5.6.1999) by S.I. 1999/1542, **art. 4(1)** and S.I. 1999/1543, **art. 4(1)**; (21.7.1999) by S.I. 1999/2025, **art. 5(1)** and S.I. 1999/2026, **art. 5(1)**; (S.) (29.7.1999) by S.S.I. 1999/15, **reg. 5**; (18.8.1999) by S.I. 1999/2332, **art. 5(1)** and S.I. 1999/2333, **art. 5(1)**; (12.10.1999) by S.I. 1999/2798, **art. 5(1)** and S.I. 1999/2799, **art. 5(1)**; (23.12.1999) by S.I. 1999/3421, **art. 5(1)** and S.I. 1999/3422, **art. 5(1)**
- S. 9 applied (with modifications): (S.) (17.2.2000) by S.S.I. 2000/15, **art. 5(1)** and S.S.I. 2000/16, **art. 5(1)**; (E.W.) (8.3.2000) by S.I. 2000/587, **art. 5(1)** and S.I. 2000/588, **art. 5(1)**
- S. 9 applied (with modifications): (E.) (2.2.2002) by S.I. 2002/183, **reg. 6(2)(3)** (which S.I. was revoked (20.6.2002) by S.I. 2002/1614, reg. 6); (W.) (2.2.2002) by S.I. 2002/203, **reg. 6(2)(3)** (which S.I. was revoked (12.7.2002) by S.I. 2002/1798, reg. 6); (S.) (2.2.2002) by S.S.I. 2002/36, **reg. 6(2)(3)** (which S.S.I. was revoked (24.6.2002) by S.S.I. 2002/300, reg. 6); (E.) (16.2.2002) by S.I. 2002/334, **art. 5(2)(3)**; (S.) (16.2.2002) by S.S.I. 2002/64, **art. 5(2)(3)**; (W.) (23.2.2002) by S.I. 2002/402, **art. 5(2)(3)**; (E.) (23.3.2002) by S.I. 2002/773, **reg. 5(2)(3)** (which S.I. was revoked (13.9.2002) by S.I. 2002/2351, reg. 7); (E.) (23.3.2002) by S.I. 2002/774, **reg. 5(2)(3)** (which S.I. was revoked (13.9.2002) by S.I. 2002/2350, reg. 7); (S.) (25.3.2002 at 1700 hours) by S.S.I. 2002/148, **regs. 1(1), 5(2)(3)** (which S.S.I. was revoked by S.S.I. 2002/424, reg. 7); (S.) (25.3.2002 at 1700 hours) by S.S.I. 2002/149, **regs. 1(1), 5(2)(3)** (which S.S.I. was revoked by S.S.I. 2002/425, reg. 7); (W.) (26.3.2002) by S.I. 2002/820, **reg. 5(2)(3)** (which S.I. was revoked (9.9.2002) by S.I. 2002/2295, reg. 7); (W.) (26.3.2002) by S.I. 2002/821, **reg. 5(2)(3)** (which S.I. was revoked (9.9.2002) by S.I. 2002/2296, reg. 7); (E.) (4.4.2002) by S.I. 2002/931, **reg. 5(2)(3)**; (W.) (16.4.2002) by S.I. 2002/1090, **reg. 5(2)(3)**; (E.) (19.4.2002) by S.I. 2002/843, **reg. 77(1)(a)(3)**; (W.) (27.5.2002) by S.I. 2002/1416, **reg. 77(1)(a)(3)**; (E.) (18.6.2002) by S.I. 2002/890, **reg. 7(2)-(4)**; (S.) (19.6.2002) by S.S.I. 2002/255, **reg. 76(1)(a)(3)**; (E.) (20.6.2002) by S.I. 2002/1614, **reg. 5(2)(3)**; (S.) (24.6.2002) by S.S.I. 2002/300, **reg. 5(2)(3)**; (S.) (1.7.2002) by S.S.I. 2002/267, **reg. 7(2)-(4)**; (W.) (12.7.2002) by S.I. 2002/1798, **reg. 5(2)(3)**; (W.) (2.8.2002) by S.I. 2002/1886, **reg. 7(2)-(4)**
- C4** S. 9 applied (with modifications) (E.) (30.6.2003) by Contaminants in Food (England) Regulations 2003 (S.I. 2003/1478), **regs. 1, 7(2), 7(3)**
- C5** S. 9 applied (with modifications) (1.7.2003) by Contaminants in Food (Scotland) Regulations 2003 (S.S.I. 2003/289), **regs. 1(1), 7(2)** (with reg. 7(3))
- C6** S. 9 amendment to earlier affecting provision SI 2002/931 reg. 5(2) (17.4.2004) by Food (Jelly Confectionery) (Emergency Control) (England) (Amendment) Regulations 2004 (S.I. 2004/1151), **regs. 1, 2(5)**
- C7** S. 9 applied (with modifications) (4.10.2004) by Genetically Modified Food (England) Regulations 2004 (S.I. 2004/2335), **regs. 1(b), 7(2)**
- C8** S. 9 applied (with modifications) (15.11.2004) by Genetically Modified Food (Scotland) Regulations 2004 (S.S.I. 2004/432), **regs. 1(1), 6(4)**
- C9** S. 9 applied (with modifications) (17.12.2004) by Genetically Modified Food (Wales) Regulations 2004 (S.I. 2004/3220), **regs. 1(b), 7(2)**
- C10** S. 9 applied (with modifications) (20.12.2004) by Contaminants in Food (England) Regulations 2004 (S.I. 2004/3062), **regs. 1, 7(2), 7(3)**
- C11** S. 9(2)-(9) applied (with modifications) (21.5.1998) by S.I. 1998/1277, **art. 4(1)(a)(2)**

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C12 S. 9(3) applied (with modifications) (W.) (31.7.2003) by [The Contaminants in Food \(Wales\) Regulations 2003 \(S.I. 2003/1721\)](#), regs. 1, **7(2)**

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