Food Safety Act 1990

1990 CHAPTER 16

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

53 General interpretation.

(1) In this Act, unless the context otherwise requires—

"the 1984 Act" means the Food Act 1984;

"the 1956 Act" means the [M1]Food and Drugs (Scotland) Act 1956;

"advertisement" includes any notice, circular, label, wrapper, invoice or other document, and any public announcement made orally or by any means of producing or transmitting light or sound, and "advertise" shall be construed accordingly;

"analysis" includes microbiological assay and any technique for establishing the composition of food, and "analyse" shall be construed accordingly;

"animal" means any creature other than a bird or fish;

"article" does not include a live animal or bird, or a live fish which is not used for human consumption while it is alive;

"container" includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

"contravention", in relation to any provision, includes any failure to comply with that provision;

"cream" means that part of milk rich in fat which has been separated by skimming or otherwise;

"equipment" includes any apparatus;

"exportation" and "importation" have the same meanings as they have for the purposes of the [M2]Customs and Excise Management Act 1979, and "export" and "import" shall be construed accordingly;

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"fish" includes crustaceans and molluscs;

"functions" includes powers and duties;

"human consumption" includes use in the preparation of food for human consumption;

"knacker's yard" means any premises used in connection with the business of slaughtering, flaying or cutting up animals the flesh of which is not intended for human consumption;

"milk" includes cream and skimmed or separated milk;

"occupier", in relation to any ship or aircraft of a description specified in an order made under section 1(3) above or any vehicle, stall or place, means the master, commander or other person in charge of the ship, aircraft, vehicle, stall or place;

"officer" includes servant;

"preparation", in relation to food, includes manufacture and any form of processing or treatment, and "preparation for sale" includes packaging, and "prepare for sale" shall be construed accordingly;

"presentation", in relation to food, includes the shape, appearance and packaging of the food, the way in which the food is arranged when it is exposed for sale and the setting in which the food is displayed with a view to sale, but does not include any form of labelling or advertising, and "present" shall be construed accordingly;

"proprietor", in relation to a food business, means the person by whom that business is carried on;

"ship" includes any vessel, boat or craft, and a hovercraft within the meaning of the [M3]Hovercraft Act 1968, and "master" shall be construed accordingly;

"slaughterhouse" means a place for slaughtering animals, the flesh of which is intended for sale for human consumption, and includes any place available in connection with such a place for the confinement of animals while awaiting slaughter there or for keeping, or subjecting to any treatment or process, products of the slaughtering of animals there;

"substance" includes any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

"treatment", in relation to any food, includes subjecting it to heat or cold.

(2) The following Table shows provisions defining or otherwise explaining expressions used in this Act (other than provisions defining or explaining an expression used only in the same section)—

authorised officer of a food authority	section 5(6)
[[F1]Authorised officer of an enforcement authority	section 6(6)**]**
business	section 1(3)
commercial operation	section 1(3) and (4)
contact material	section 1(3)
emergency control order	section 13(1)
emergency prohibition notice	section 12(1)

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emergency prohibition order	section 12(2)
enforcement authority	section 6(1)
examination and examine	section 28(2)
[[F2]food	section 1(1)**]**
food authority	section 5
food business	section 1(3)
[[F3]food information	section 15A
food information law	section 15A**]**
food premises	section 1(3)
[[F4]food safety requirements	section 8**]**
food source	section 1(3)
improvement notice	section 10(1)
F5	**F5**
. . .	. . .
F6	**F6**
. . .	
F6	**F6**
. . .	. . .
premises	section 1(3)
prohibition order	section 11(5)
public analyst	section 27(1)
[[F7]Regulation (EC) No. 178/2002	section 1(2)**]**
sale and related expressions	section 2
unfit for human consumption	section 8(4)

(3) Any reference in this Act to regulations or orders made under it shall be construed as a reference to regulations or orders made under this Act by **[**[F8]the Secretary of State**]**.

(4) For the purposes of this Act, any class or description may be framed by reference to any matters or circumstances whatever, including in particular, in the case of a description of food, the brand name under which it is commonly sold.

(5) Where, apart from this subsection, any period of less than seven days which is specified in this Act would include any day which is—
   (a) a Saturday, a Sunday, Christmas Day or Good Friday; or
   (b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of Great Britain concerned,

that day shall be excluded from that period.

Textual Amendments

F1 S. 53(2): entry inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2)(f), **Sch. 16 para. 19**

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F2 S. 53(2): entry substituted (7.12.2004) by Food Safety Act 1990 (Amendment) Regulations 2004 (S.I. 2004/2990), regs. 1(1), **6(a)**

F3 Words in s. 53(2) inserted (S.) (1.4.2015) by Food (Scotland) Act 2015 (asp 1), s. 63(2), **sch. para. 3(12)** (with s. 62); S.S.I. 2015/99, art. 2

F4 S. 53(2): entry substituted (1.1.2005) by General Food Regulations 2004 (S.I. 2004/3279), regs. 1, **15(a)**

F5 S. 53(2) entry omitted (1.1.2005) by General Food Regulations 2004 (S.I. 2004/3279), regs. 1, **15(b)**

F6 S. 53(3): entries repealed (1.4.2000) by 1999 c. 28, s. 40(4), **Sch. 6** (with s. 38); S.I. 2000/1066, **art. 2**

F7 S. 53(2): entry inserted (7.12.2004) by Food Safety Act 1990 (Amendment) Regulations 2004 (S.I. 2004/2990), regs. 1(1), **6(b)**

F8 S. 53(3) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 8** (with ss. 38 , 40(2)); S.I. 2000/1066, **art. 2**

Modifications etc. (not altering text)

C1 S. 53 applied (with modifications) (W.) (22.2.2020 for all purposes except in respect of infant formula and follow-on formula manufactured from protein hydrolysates and 22.2.2021 in so far as not already in force) by The Infant Formula and Follow-on Formula (Wales) Regulations 2020 (S.I. 2020/89), regs. 1(1)(2), 4(7)(k), **Sch. 2 para. 16** (with savings in reg. 5(4)(5), Sch. 4 para. 26(1)(2) (as inserted (16.9.2021) by S.I. 2021/955, reg. 2(2), **Sch.**))

C2 S. 53 applied (with modifications) (E.) (22.2.2020 for all purposes except in respect of infant formula and follow-on formula manufactured from protein hydrolysates and 22.2.2022 in so far as not already in force) by The Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020 (S.I. 2020/43), regs. 1(1)(2), 4(6)(7)(k), **Sch. 2 para. 16** (as amended by S.I. 2021/168, **reg. 2(2)**)

Marginal Citations

M1 1956 c. 30 .

M2 1979 c. 2 .

M3 1968 c. 59 .

PROSPECTIVE

54 Application to Crown.

(1) Subject to the provisions of this section, the provisions of this Act and of regulations and orders made under it shall bind the Crown.

(2) No contravention by the Crown of any provision of this Act or of any regulations or order made under it shall make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may, on the application of an enforcement authority, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in subsection (2) above, the provisions of this Act and of regulations and orders made under it shall apply to persons in the public service of the Crown as they apply to other persons.

(4) If the Secretary of State certifies that it appears to him requisite or expedient in the interests of national security that the powers of entry conferred by section 32 above should not be exercisable in relation to any Crown premises specified in the certificate, those powers shall not be exercisable in relation to those premises; and in

this subsection "Crown premises" means premises held or used by or on behalf of the Crown.

(5) Nothing in this section shall be taken as in any way affecting Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the [M4]Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.

Marginal Citations

M4 1947 c. 44.

[[F9]55 Water supply: England and Wales. E+W

Nothing in Part 2 of this Act or any regulations or order made under that Part shall apply in relation to the supply of water to any premises, whether—

(a) by a water undertaker;

(b) by a **[**[F10]water supply licensee**]** (within the meaning of the Water Industry Act 1991); or

(c) by means of a private supply (within the meaning of Part 3 of that Act).**]**

Textual Amendments

F9 S. 55 substituted (1.12.2005) by Water Act 2003 (Consequent and Supplementary Provisions) Regulations 2005 (S.I. 2005/2035), regs. 1(4), **7**

F10 Words in s. 55(b) substituted (31.3.2017) by The Water Act 2014 (Consequential Amendments etc.) Order 2017 (S.I. 2017/506), arts. 1(1), **5**

56 Water supply: Scotland.

(1) Nothing in Part II of this Act or any regulations or order made under that Part shall apply in relation to the supply of water to any premises, whether by **[**[F11]Scottish Water**]** or by means of a private supply (within the meaning of Part VIA of **[**[F12]the Water (Scotland) Act 1980**]**).

(2) In the following provisions of that Act, namely—

section 76A (duties of water authorities with respect to water quality); and

section 76B (regulations for preserving water quality),

for the words "domestic purposes", wherever they occur, there shall be substituted the words " domestic or food production purposes ".

(3) In subsection (2) of section 76F of that Act (general functions of local authorities in relation to water quality), for the words "domestic purposes" there shall be substituted the words " domestic or food production purposes " and for the words "those purposes" there shall be substituted the words " domestic purposes ".

(4) In subsection (1) of section 76G of that Act (remedial powers of local authorities in relation to private supplies), for the words "domestic purposes", in the first place where they occur, there shall be substituted the words " domestic or food production purposes ".

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(5) In subsection (1) of section 76L of that Act (interpretation etc. of Part VIA), after the definition of "analyse" there shall be inserted the following definition—

> ""food production purposes" shall be construed in accordance with subsection (1A) below;".

(6) After that subsection there shall be inserted the following subsection—

> "(1A) In this Part references to food production purposes are references to the manufacturing, processing, preserving or marketing purposes with respect to food or drink for which water supplied to food production premises may be used; and in this subsection "food production premises" means premises used for the purposes of a business of preparing food or drink for consumption otherwise than on the premises."

Textual Amendments

F11 Words in s. 56(1) substituted (S.) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(2), **Sch. 7 para. 19(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

F12 Words in s. 56(1) substituted (S.) (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(2), **Sch. 7 para. 19(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

57 Scilly Isles and Channel Islands.

[F13](1) . . . . . .

(2) Her Majesty may by Order in Council direct that any of the provisions of this Act shall extend to any of the Channel Islands with such exceptions and modifications (if any) as may be specified in the Order.

Textual Amendments

F13 S. 57(1) repealed (1.4.2000) by 1999 c. 28, s. 40(1)(4), **Sch. 5 para. 22 Sch. 6** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**

58 Territorial waters and the continental shelf.

(1) For the purposes of this Act the territorial waters of the United Kingdom adjacent to any part of Great Britain shall be treated as situated in that part.

(2) An Order in Council under **[**[F14]section 11 of the Petroleum Act 1998**]**(application of civil law) may make provision for treating for the purposes of food safety legislation—

(a) any installation which is in waters to which that section applies; and

(b) any safety zone around any such installation,

as if they were situated in a specified part of the United Kingdom and for modifying such legislation in its application to such installations and safety zones.

(3) Such an Order in Council may also confer on persons of a specified description the right to require, for the purpose of facilitating the exercise of specified powers under food safety legislation—

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(a) conveyance to and from any installation, including conveyance of any equipment required by them; and

(b) the provision of reasonable accommodation and means of subsistence while they are on any installation.

(4) In this section—

"food safety legislation" means this Act and any regulations and orders made under it and any corresponding provisions in Northern Ireland;

"installation" means an installation to which subsection (3) of the said **[**[F15]section 11**]** applies;

"safety zone" means an area which is a safety zone by virtue of Part III of the [M5]Petroleum Act 1987; and

"specified" means specified in the Order in Council.

Textual Amendments

F14 Words in s. 58(2) substituted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 28(a)**(with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**

F15 S. 58(4):words in definition of "installation" substituted (15.2.1999) by 1998 c. 17, s. 50, **Sch. 4 para. 28(b)**(with Sch. 3 para. 5(1)); S.I. 1999/161, **art. 2(1)**

Modifications etc. (not altering text)

C3 S. 58 amended (11.11.1999) by 1999 c. 28, **s. 43(3)** (with s. 38)

C4 S. 58(1) applied (9. 4. 1992) by S.I. 1992/496, **reg. 7(1)(g)**

C5 S. 58(1) applied (with modifications) (29.4.1998) by S.I. 1998/994, **reg. 4**
S. 58(1) applied (with modifications) (W.) (9.1.2003) by S.I. 2002/3157, **reg. 5(1)(l)**

C6 S. 58(1) applied (with modifications) (E.) (1.3.2007) by Quick-frozen Foodstuffs (England) Regulations 2007 (S.I. 2007/191), regs. 1(b), **10(l)**

C7 S. 58(1) applied (with modifications) (W.) (1.3.2007) by Quick-frozen Foodstuffs (Wales) Regulations 2007 (S.I. 2007/389), **art. 10(l)**reg. 1(2)

C8 S. 58(1) applied (with modifications) (31.7.2009) by The Food Irradiation (Scotland) Regulations 2009 (S.S.I. 2009/261), regs. 1(b), **11(1)(k)** (with reg. 2)

C9 S. 58(1) applied (with modifications) (31.7.2009) by The Food Irradiation (England) Regulations 2009 (S.I. 2009/1584), regs. 1, **11(1)(k)** (with reg. 2)

C10 S. 58(1) applied (with modifications) (31.7.2009) by The Food Irradiation (Wales) Regulations 2009 (S.I. 2009/1795), regs. 1(1), **11(1)(k)** (with reg. 2)

Marginal Citations

M5 1987 c. 12.

59 Amendments, transitional provisions, savings and repeals.

(1) The enactments mentioned in Schedule 3 to this Act shall have effect subject to the amendments there specified (being minor amendments and amendments consequential on the preceding provisions of this Act).

(2) **[**[F16]the Secretary of State**]** may by order make such modifications of local Acts, and of subordinate legislation (within the meaning of the [M6]Interpretation Act 1978), as appear to them to be necessary or expedient in consequence of the provisions of this Act.

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(3) The transitional provisions and savings contained in Schedule 4 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the said Act of 1978 (which relate to the effect of repeals).

(4) The enactments mentioned in Schedule 5 to this Act (which include some that are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

Textual Amendments

F16 Words in s. 59(2) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 8** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**

Commencement Information

I1 S.59 wholly in force; s. 59 not in force at Royal Assent see s. 60(2)-(4); s. 59(1)(2)(3) wholly in force and s. 59(4) partly in force at 1.2.1991; s. 59(4) partly in force at 1.4.1992 by S.I. 1990/2732, **art. 2(d)(iv)**; s. 59(4) partly in force at 3.4.1992 by S.I. 1992/57, **art. 2**

Marginal Citations

M6 1978 c. 30.

60 Short title, commencement and extent.

(1) This Act may be cited as the Food Safety Act 1990.

(2) The following provisions shall come into force on the day on which this Act is passed, namely—

section 13;

section 51; and

paragraphs 12 to 15 of Schedule 2 and, so far as relating to those paragraphs, section 52.

(3) Subject to subsection (2) above, this Act shall come into force on such day as the Ministers may by order appoint, and different days may be appointed for different provisions or for different purposes.

(4) An order under subsection (3) above may make such transitional adaptations of any of the following, namely—

(a) the provisions of this Act then in force or brought into force by the order; and

(b) the provisions repealed by this Act whose repeal is not then in force or so brought into force,

as appear to the Ministers to be necessary or expedient in consequence of the partial operation of this Act.

(5) This Act, except—

this section;

section 51,

section 58(2) to (4); and

paragraphs 7, 29 and 30 of Schedule 3 and, so far as relating to those paragraphs, section 59(1),

does not extend to Northern Ireland.

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Subordinate Legislation Made

P1 S. 60(3): power of appointment conferred by s. 60(3) exercised by S.Is. 1990/1383, 1990/2372, 1992/57.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 37(2)(a) repealed by 2007 c. 15 Sch. 23 Pt. 1