

## SCHEDULES

### SCHEDULE 2

#### ENFORCEMENT AND EXECUTION OF ORDERS AND REGULATIONS MADE UNDER THE FOOD ACT 1984

6.—(1) A person against whom proceedings are brought in respect of a contravention of any order or regulation shall, upon complaint duly made by him, and on giving not less than three clear days' notice of his intention, be entitled to have brought before the court in the proceedings any person to whose act or default he alleges that the contravention of the provisions in question was due, and the following provisions of this paragraph shall have effect accordingly.

(2) Where, in accordance with sub-paragraph (1), another person has been brought before the court and—

- (a) the contravention of the provisions in question has been proved; and
- (b) the original defendant proves that the contravention was due to the act or default of that other person;

that other person may be convicted of the offence.

(3) Where—

- (a) another person brought before the court in accordance with sub-paragraph (1) has been convicted of the offence in accordance with sub-paragraph (2); and
- (b) the original defendant proves that he used all due diligence to secure that the provisions in question were complied with;

the original defendant shall be acquitted of the offence.

(4) Where a defendant seeks to avail himself of the foregoing provisions of this paragraph—

- (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to the proceedings.

(5) Where it appears to the Minister or, as the case may be, a district council that an offence against any provision of an order or regulation has been committed in respect of which proceedings might be taken against some person, and the Minister or the council is reasonably satisfied that—

- (a) the offence was due to an act or default of some other person; and
- (b) the first-mentioned person could establish a defence in accordance with the foregoing provisions of this paragraph;

the Minister or the council may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person, and in any such proceedings that other person may be charged with, and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged.