



Food Act 1984

1984 CHAPTER 30

[^{F1}PART I

FOOD GENERALLY

[^{F1} Control of food premises

Textual Amendments

- F1** Pts. I, II (ss. 1–49) repealed (E.W.) (with savings for ss. 15 and 21) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), ss. 54, 59, [Sch. 4 paras. 7, 8](#), [Sch. 5](#) (but (3.4.1992) as regards ss. 16–20; [S.I. 1992/57, art. 2](#) and not coming into force as regards s.13 so far as it relates to the Food Hygiene (Amendment) Regulations 1990 until either 1.4.1991 or 1.4.1992 as mentioned in [S.I. 1990/2372](#))

21 Closure order.

- (1) Where on an information laid by a local authority a person is convicted of an offence under regulations made under section 13 and the offence includes—
- (a) the carrying on of a food business at any insanitary premises or at any premises the condition, situation or construction of which is such that food is exposed to the risk of contamination, or
 - (b) the carrying on of a food business on, at or from a stall which is insanitary, or which is so situated or constructed, or is in such a condition, that the food is exposed to the risk of contamination,
- then, subject to subsection (2), if the court is satisfied that—
- (i) food continues or is likely to continue to be prepared, stored, sold or offered or exposed for sale at those premises or on, at or from that stall, and
 - (ii) by reason of the situation, construction or insanitary or defective condition of the premises or stall or the insanitary or defective condition of the fittings or fixtures or equipment or the infestation of vermin or the accumulation of refuse, the carrying on of a food business at those premises or on, at or from that stall would be dangerous to health,

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the court may on the local authority's application, whether or not it makes any other order, by order (called "a closure order") prohibit the preparation, storage, sale or offer or exposure for sale at those premises or on, at or from that stall of food until the local authority certifies under subsection (4) that such specified measures as the court considers necessary to remove the danger to health have been carried out.

- (2) A closure order shall not be made unless the local authority have, not less than 14 days before the trial of the information, given—
- (a) the person against whom the information was laid, and
 - (b) if he is not that person, the owner of the premises or stall (unless the local authority are unable after reasonable inquiry to ascertain his identity),
- written notice of their intention to apply for the order.
- (3) The local authority shall in any notice under subsection (2) specify the measures which, in their opinion, should be taken to remove any danger to health.
- (4) Any person who wishes to carry on a food business at any premises or on, at or from any stall with respect to which a closure order is in force may apply to the local authority who, if satisfied that the measures specified by the closure order have been carried out, shall as soon as practicable and in not more than 14 days give to the applicant a certificate to that effect, and such certificate shall be conclusive evidence of the matters stated in it.

22 Emergency order.

- (1) Where an information is, or has been, laid by a local authority in relation to an offence described in section 21(1) and application is made by the local authority for an order under this section, the court may, subject to subsection (2), if satisfied—
- (a) by evidence tendered by the local authority, and
 - (b) after affording, if he appears, the person against whom the information is or was laid and, if he is not that person, the owner of the premises or stall, an opportunity to be heard and tender evidence,
- that the use of the premises or stall for the preparation, storage, sale or offer or exposure for sale of food involves imminent risk of danger to health, make an order (called "an emergency order") prohibiting, either absolutely or subject to conditions, the use of those premises or that stall for those purposes until—
- (i) the determination of the proceedings to which the information gave rise, or
 - (ii) the issue of a certificate by the local authority under subsection (6),
- whichever is the earlier.
- (2) The court shall not consider an application under this section unless it is satisfied that at least three clear days' notice in writing of intention to make that application and of the time at which it would be made has been given to the person against whom the information is or was laid and, if he is not that person, to the owner of the premises or stall.
- (3) The local authority shall in any notice under subsection (2) specify the measures which, in their opinion, should be taken to remove any danger to health.
- (4) Notice for the purpose of subsection (2) may be served in any way, except by post, authorised by rules made under section 144 of the ^{M1}Magistrate's Courts Act 1980 for the service of a summons issued by a justice of the peace or by leaving it for him

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with some person who appears to be employed at the premises or stall to which the information relates.

- (5) The local authority shall serve a copy of an emergency order made under this section as soon as may be after the order has been made on the person against whom the information was laid and, if he is not that person, on the owner of the premises or stall, and shall affix a copy of it in a conspicuous position on the premises or, if practicable, on the stall.
- (6) Any person who wishes to carry on a food business at any premises or on, at or from any stall, with respect to which an emergency order is in force, may apply to the local authority who, if satisfied there is no longer any risk of danger to health, shall as soon as practicable and in not more than 14 days issue a certificate to that effect.

Marginal Citations

M1 1980 c. 43.

23 Compensation.

- (1) If on the trial of an information relating to an offence described in section 21(1) the court, on the application of an interested person—
 - (a) determines that at the date of any emergency order the use of the premises or stall did not involve imminent risk of danger to health, and
 - (b) is satisfied that loss has been occasioned by the emergency order,the court may order the local authority to pay to that person compensation of such amount as the court thinks proper.
- (2) The following are interested persons for the purposes of subsection (1) and section 24(2)—
 - (a) the person against whom the information was laid;
 - (b) the owner of the premises or stall;
 - (c) any person not within paragraph (a) or (b) who at the time when the emergency order was made was carrying on a food business at those premises or on, at or from that stall.

24 Appeals.

- (1) Where an application for a closure order is refused or granted—
 - (a) if the application is refused, the local authority who made the application may appeal to the Crown Court;
 - (b) if the application is granted, any person to whom notice of the application was given under section 21(2) may appeal as mentioned in paragraph (a).
- (2) Where an application for an order under section 23 for the payment of compensation is granted or refused, the following persons may appeal to the Crown Court—
 - (a) the local authority who made the application for the emergency order in question; or
 - (b) any interested person who applied for the payment of compensation under that section in respect of that order.
- (3) Where a person applies for a certificate under section 21(4)

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or 22(6), and the local authority refuses or fails to give it, the applicant may appeal to a magistrates' court who may, if satisfied that it is proper to do so, direct the authority to give such certificate.

25 Offences against food premises control.

- (1) A person who contravenes a closure order or an emergency order is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) In the application of the provisions of sections 21, 22, 23 and 24, and of subsection (1) of this section, in connection with an offence under any such regulations as are mentioned in section 21(1)—
 - (a) any expression to which a meaning is given by the regulations in question shall, unless the context otherwise requires, have the same meaning in those provisions as in those regulations; and
 - (b) those provisions shall have effect as if the references to premises included places which are not premises within the meaning of those regulations.

26 Ships.

In relation to any offence under regulations made under section 13 which includes the carrying on of a food business—

- (a) in any insanitary ship, or
- (b) in any ship the condition, situation or construction of which is such that food is exposed to the risk of contamination,

the Secretary of State may make regulations containing provisions corresponding to those of sections 21, 22, 23, 24 and 25, with such additions, omissions or other modifications as he thinks fit.

As to regulations under this section—

- (i) the penalty provided by any provision of such regulations which corresponds to section 25(1) shall be the same as in that subsection;
- (ii) the only provision of Parts VI and VII which applies to the exercise of the power to make such regulations is section 120.]

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