



# Food Act 1984

## 1984 CHAPTER 30

### PART IV

#### SALE OF FOOD BY HAWKERS

#### **62 Application of Part IV**

A local authority may resolve that this Part is to apply to their area, and if a local authority do so resolve—

- (a) this Part shall come into force in their area on the day specified in that behalf in the resolution; but
- (b) that day must not be before the expiry of the period of one month beginning with the day on which the resolution is passed.

#### **63 Public notice of application of Part IV**

Where a local authority have passed a resolution under this Part, they shall publish a notice for two consecutive weeks, in a local newspaper circulating in their area, which shall state—

- (a) that the resolution has been passed, and
- (b) the general effect of the following provisions of this Part,

and the first publication of that notice shall not be later than 28 days before the day specified in the resolution for the coming into force of this Part in the local authority's area.

#### **64 Registration of food hawkers, and their premises**

- (1) In any area in which this and the following sections of this Part are in force—
  - (a) no person shall hawk food unless he is registered under those sections by the local authority for the area ; and
  - (b) no premises shall be used as storage accommodation for any food intended for hawking unless the premises are so registered. This subsection applies to

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a person who hawks food as an assistant to a person registered under those sections unless—

- (i) he is normally supervised when so doing ; or
- (ii) he assists only as a temporary replacement.

- (2) For the purposes of those sections a person hawks food if for private gain—
- (a) he goes from place to place selling food or offering or exposing food for sale, or
  - (b) he sells food in the open air or offers or exposes food for sale in the open air, unless he does so as part of, or as an activity ancillary to, a trade or business carried on by him or some other person on identifiable property.

#### **65 Contravention of s.64, and defence**

- (1) A person who without reasonable excuse contravenes section 64 is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) It is a defence for a person charged with such an offence to prove that he—
- (a) took all reasonable precautions, and
  - (b) exercised all due diligence, to avoid committing the offence.

#### **66 Application for registration**

- (1) An application for registration under this Part shall be accompanied by such particulars as the local authority may reasonably require.
- (2) The particulars that the local authority may require include, without prejudice to the generality of subsection (1), particulars as to any vehicle to be used by the applicant in connection with food hawking.
- (3) A local authority may charge such reasonable fees as they may determine for registration under this Part.
- (4) An application for premises to be registered under this Part shall be made by the person intending to use them as storage accommodation.
- (5) On application for registration under this Part the local authority shall—
- (a) register the applicant and, if the application is for the registration of premises, those premises ; and
  - (b) issue to the applicant a certificate of registration.

#### **67 Interpretation of Part IV, and exemptions**

- (1) In this Part, "food" means food and ingredients, of food for human consumption, including—
- (a) drink (other than water);
  - (b) chewing gum and like products ; but does not include—
    - (i) milk and cream ;
    - (ii) live animals or birds ;
    - (iii) articles or substances used only as drugs.
- (2) Parts VI and VII do not apply for the purposes of this Part, except for—

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- (a) the definition of " local authority " in section 72 ;
  - (b) the definition of " standard scale " in section 132(1); and
  - (c) section 134, and paragraph 1 of Schedule 9, Schedule 11, and section 136.
- (3) This Part does not apply—
- (a) to the sale or offer or exposure for sale of food—
    - (i) at a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order;
    - (ii) at a notified temporary market; or
    - (iii) at a notified pleasure fair; or
  - (b) to the sale or offer or exposure for sale of food in or from premises exempt from registration by paragraphs (c) and (d) of section 16(3) or of food prepared or manufactured on such premises ; or
  - (c) to the sale or offer or exposure for sale of food by way of street trading at any place in the local authority's area by a person whom the local authority have authorised under any enactment to engage in such trading in their area (whether or not they have authorised him to trade at the place where the food was sold or offered or exposed for sale) or by a person acting as an assistant to a person so authorised; or
  - (d) to premises used as storage accommodation for food prepared for sale as mentioned in paragraphs (a) to (c) above; or
  - (e) to the sale or offer or exposure for sale of food in containers of such materials and so closed as to exclude all risks of contamination. In this subsection—
    - " notified pleasure fair " means a pleasure fair, as defined in paragraph (a) of section 75(2) of the Public Health Act 1961, notice of which has been given to the local authority in accordance with byelaws under that section ;
    - " notified temporary market" means a temporary market notice of which has been given to the local authority in accordance with section 37(2) of the Local Government (Miscellaneous Provisions) Act 1982 or any other enactment regulating such markets.