



# Food Act 1984

## 1984 CHAPTER 30

### PART VI

#### ADMINISTRATION, ENFORCEMENT AND LEGAL PROCEEDINGS

##### *Sampling and analysis*

#### **76 Public analysts**

- (1) Every food and drugs authority shall appoint in accordance with this section one or more persons (in this Act called "public analysts") to be analysts of food and drugs within their area.
- (2) No person shall be appointed a public analyst unless he possesses either—
  - (a) the qualifications prescribed by regulations made by the Ministers, or
  - (b) such other qualifications as the Ministers may approve,and no person shall be appointed public analyst for any area who is engaged directly or indirectly in any trade or business connected with the sale of food or drugs in that area.
- (3) A food and drugs authority shall pay to a public analyst such remuneration as may be agreed, which may be expressed to be payable either—
  - (a) in addition to any fees received by him under this Part; or
  - (b) on condition that any fees so received by him are paid over by him to the authority.
- (4) A food and drugs authority who appoint only one public analyst may appoint also a deputy to act during any vacancy in the office of public analyst, or during the absence or incapacity of the holder of the office, and—
  - (a) the provisions of this section with respect to the qualifications, appointment, removal and remuneration of a public analyst shall apply also in relation to a deputy public analyst; and

- (b) any reference in the following provisions of this Act to a public analyst shall be construed as including a reference to a deputy public analyst appointed under this subsection.

## **77 Facilities for examination**

A county council or local authority may provide facilities for bacteriological and other examinations of samples of food and drugs.

## **78 Powers of sampling**

- (1) An authorised officer of a council may exercise such powers of procuring samples for analysis, or for bacteriological or other examination, as are conferred upon him by this section, and any such officer is in this Act called a " sampling officer ".
- (2) A sampling officer may purchase samples of any food or of any substance capable of being used in the preparation of food.
- (3) A sampling officer may take a sample of any food, or of any substance capable of being used in the preparation of food, which—
  - (a) appears to him to be intended for sale, or to have been sold, for human consumption ; or
  - (b) is found by him on or in any premises, stall, vehicle, ship, aircraft or place which he is authorised to enter for the purposes of the execution of this Act
- (4) Without prejudice to subsection (3), a sampling officer—
  - (a) may take a sample of milk while at any dairy, or while deposited for collection, or at any time before it is delivered to a consumer in pursuance of a sale by retail;
  - (b) may, at the request of a person to whom any food or substance is, or is to be, delivered in pursuance of a contract of sale, take a sample of that food or substance in the course of delivery, or at the place of delivery.
- (5) A sampling officer who under this section takes a sample of the milk of any cows at a dairy may take such steps at the dairy as may be necessary to satisfy himself that the sample is a fair sample of the milk of the cows when properly and fully milked.
- (6) Except as provided by subsection (4), or with the purchaser's consent, a sampling officer shall not take a sample of any food or substance which appears to him to have been sold by retail, either—
  - (a) while the food or substance is in the course of delivery to the purchaser, or
  - (b) at any time after such delivery,

and nothing in this section shall authorise a sampling officer to take a sample of any food or substance in a ship (not being a home-going ship) or in any aircraft, other than food imported as part of the cargo of that ship or aircraft.
- (7) The powers of taking samples of milk which are conferred on a sampling officer by subsections (3) to (6) shall be exercisable throughout any county by an authorised officer of the county council, whether or not the council is the food and drugs authority for the whole county.
- (8) Any power of an authorised officer in respect of procuring samples of milk may be exercised at a place outside the area of the council whose officer he is, if the food

and drugs authority of the area within which that place is situated have consented to samples of milk being procured within their areas by officers of the first-mentioned council, and, for the purposes of this Act, any samples so procured shall be deemed to have been procured within the area for which the officer in question acts.

A food and drugs authority shall not unreasonably withhold their consent for the purposes of this subsection; and any question whether or not such consent is unreasonably withheld shall be referred to and determined by the Secretary of State.

## **79 Right to have samples analysed**

- (1) If a sampling officer who has procured a sample of any food or substance considers that it should be analysed, he shall submit it to be analysed by the public analyst for the area in which the sample was, or is deemed to have been, procured.
- (2) A person, other than a sampling officer, who has purchased any food, or any substance capable of being used in the preparation of food, may submit a sample of it to be analysed by the public analyst for the area in which the purchase was made.
- (3) The public analyst shall analyse as soon as practicable any sample submitted to him in pursuance of this section, but may, in the case of a sample submitted by a person not being an officer of the food and drugs authority, demand in advance the payment of such fee as may be fixed by the authority.
- (4) If—
  - (a) the office of public analyst for the area in question is vacant, or
  - (b) the public analyst determines that he is for any reason unable to perform an effective analysis, the sample shall be submitted or, as the case may be, sent by the public analyst to whom it was originally submitted, to the public analyst for some other area, and he shall, upon payment to him of such sum as may be agreed, analyse the sample.
- (5) A public analyst who has analysed a sample shall give to the person by whom it was originally submitted a certificate specifying the result of the analysis ; and any such certificate shall be in a form prescribed by regulations made by the Ministers.
- (6) Any certificate of the results of an analysis given by a public analyst in pursuance of this section shall be signed by the public analyst, but the analysis may be made by any person acting under the direction of the analyst.

## **80 Samples taken for analysis**

- (1) A sampling officer who purchases or takes a sample of any food or substance for the purpose of analysis by a public analyst shall deal with the sample in accordance with Part I of Schedule 7.
- (2) Part I of that Schedule applies to the purchase of samples by any person who is neither a sampling officer nor a person having the powers of a sampling officer as it applies in relation to the purchase of samples by a sampling officer; and references in that Part to a sampling officer shall be construed accordingly.
- (3) If it appears to a sampling officer that any food or substance, of which he has procured a sample for the purpose of analysis by a public analyst, was manufactured or put into its wrapper or container by a person (not being a person to whom one part of the sample is required to be given under Part I of Schedule 7) having his name and

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*Status: This is the original version (as it was originally enacted).*

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an address in the United Kingdom displayed on the wrapper or container, the officer shall, unless he decides not to have an analysis made, within three days of procuring the sample send to that person a notice informing him—

- (a) that the sample has been procured by the officer; and
  - (b) where the sample was taken or, as the case may be, from whom it was purchased.
- (4) Where a sample taken or purchased by a sampling officer has been analysed by a public analyst, any person to whom a part of the sample was given under Part I of Schedule 7 shall be entitled, on payment to the authority by whose officer the sample was procured of a fee of 5p to be supplied with a copy of the certificate given by the public analyst under section 79(5).

## **81 Sampling of milk**

- (1) The provisions of this Act relating—
- (a) to the procuring of samples by a sampling officer, and
  - (b) to connected proceedings,
- have in relation to milk effect subject to Part II of Schedule 7.
- (2) Where milk sold or exposed for sale within the area of any council is obtained from a dairy outside that area—
- (a) the proper officer or any other authorised officer of the council may by written notice to the proper officer or other authorised officer of a food and drugs authority within whose area the dairy is situated, or through whose area the milk is transported, request him to procure samples of the milk, and
  - (b) it is the duty of an officer who receives such a notice to procure, as soon as is practicable, samples of the milk in question and to forward those samples to the officer who gave the notice, or to such person as that officer may direct,
- and for the purposes of this Act samples so procured shall be deemed to have been procured within the area for which the officer who gave the notice acts.
- (3) So much of any contract as requires a purveyor of milk, on a sample of milk being procured under this Act—
- (a) to send to the person from whom he obtained the milk any part of that sample, or
  - (b) to give to that person notice that a sample has been so procured,
- shall be void.
- (4) It is a defence for a person charged with an offence under this Act, or regulations made under this Act, in respect of a sample of milk taken after the milk has left his possession, to prove—
- (a) that the churn or other vessel in which the milk was contained was effectively closed and sealed at the time when it left his possession ; and
  - (b) that it had been opened before the person by whom the sample was taken had access to it.

## **82 Sampling powers of Minister's inspectors**

The powers of sampling officers to take samples under section 78 may be exercised also, in relation to milk—

- (a) in any case, by an inspector of the Minister, and
- (b) for purposes connected with the enforcement of any provisions which, by virtue of section 74, are enforceable by the Minister, by an authorised officer of his,

and references to a sampling officer in section 78(6), in section 80, and in Part I of Schedule 7, shall be construed accordingly.

### **83 Minister's power of direction**

- (1) The Minister may, in relation to any matter appearing to him to affect the general interests of consumers or the general interests of agriculture in the United Kingdom, direct an officer of his department to procure samples of any specified food, and upon that direction the officer shall have all the powers of a sampling officer, and this Act shall apply as if he were a sampling officer, except that—
  - (a) if he intends to submit any sample procured by him to be analysed, he shall divide it into four parts, and shall deal with three of those parts in the manner directed by Part I of Schedule 7, and send the fourth part to the Minister; and
  - (b) any fee for analysis shall be payable to the analyst by the food and drugs authority of the area in which the sample is procured.
- (2) The Minister shall communicate the result of the analysis of any such sample to the food and drugs authority, and upon that communication the authority shall have the like duty to cause proceedings to be taken as if one of their officers had procured the sample and sent it to be analysed.

### **84 Where division not practicable**

Where a person procures a sample consisting of a food or substance contained in unopened containers, and the division into parts of the food or substance contained in those containers—

- (a) is not reasonably practicable, or
  - (b) might affect the composition, or impede the proper analysis, of the contents,
- the provisions of Part I of Schedule 7, or of section 83, as the case may be, with respect to the division of samples into parts shall be deemed to be complied with if the person procuring the sample divides the containers into the requisite number of lots and deals with each lot as if it were a part in the manner provided by those provisions; and references in this Act to a part of a sample shall be construed accordingly.

### **85 Examination of food not for sale**

A local authority may, at the request of a person who has in his possession any food which has not been sold and is not intended for sale, and on payment by that person of such fee, if any, as may be fixed by the authority, arrange to have the food examined.

### **86 Quarterly reports of analysts**

Every public analyst shall, as soon as may be after the last day of March, of June, of September and of December in every year, report to the authority by whom he was appointed the number of articles which have been analysed by him under this Act in his capacity of public analyst for their area during the preceding quarter of a year and the result of each analysis.