



Food Act 1984

1984 CHAPTER 30

PART VII

GENERAL AND SUPPLEMENTAL

Subordinate legislation

118 Certain regulations and orders

- (1) Regulations made under Part I of this Act Milk and Dairies Regulations and Milk (Special Designation) Regulations, may, without prejudice to the generality of the provisions under which they are made—
- (a) modify for the purposes of the regulations any provision of this Act relating to the taking, analysis and examination of samples,
 - (b) apply, as respects matters to be dealt with by the regulations, any provision in any Act (including this Act) dealing with the like matters, with the necessary modifications and adaptations,
 - (c) (subject to paragraph 3 of Schedule 4) provide for an appeal to a magistrates' court against any refusal or other decision of an authority by whom the regulations are to be enforced and executed,
 - (d) authorise the making of charges for the purposes of the regulations, or for any services performed under them, and provide for the recovery of charges so made,
 - (e) provide that an offence under the regulations shall be triable either way,
 - (f) include provisions under which a person guilty of an offence under the regulations which is so triable is liable on summary conviction to a fine not exceeding the statutory maximum or such less amount as may be specified in the regulations and on conviction on indictment to either or both of the following—
 - (i) a fine not exceeding an amount specified in the regulations, or of an indefinite amount

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- (ii) imprisonment for a term not exceeding two years or such shorter term as may be specified in the regulations,
 - (g) include provisions under which a person guilty of an offence under the regulations which is triable only summarily is liable on conviction to a fine not exceeding level 5 on the standard scale or such other level as may be specified in the regulations,
 - (h) make such ancillary and incidental provisions as appear to the Ministers to be necessary or desirable,
- and regulations made under Part I, subject to such generality, may require persons carrying on any activity to which the regulations apply to keep and produce records and provide returns.
- (2) Subsection (1), other than paragraphs (e) and (f), applies to an order made under section 5 as it applies to regulations made under Part I.
 - (3) The power conferred by paragraph (b) of subsection (1), in the case of Milk (Special Designation) Regulations, includes power, in dealing with the procuring of samples for the purpose of the enforcement of conditions of licences authorising the use of a special designation, to exclude provisions of Part II of Schedule 7 which may appear not to be appropriate for that purpose.
 - (4) Regulations made under section 13 or section 20, and any order made under section 17, may be made so as to apply throughout England and Wales or to apply only in such area or areas as may be specified in the regulations or order.
 - (5) Without prejudice to any other relevant power, any regulations made with respect to slaughterhouses or knackers' yards under section 13 may include provision for the regulations to come into force on different days fixed by, or by an order to be made under, those regulations in respect of different classes or descriptions of premises and different areas, and for different provisions to come into force on different days.
 - (6) Before making—
 - (a) any regulations to which subsection (1) applies, or
 - (b) an order under section 5 or section 17,
 the Ministers shall consult with such organisations as appear to them to be representative of interests substantially affected by the regulations or by the order.
 - (7) Subsections (1), (2) and (6) apply to Northern Ireland so far as they relate—
 - (a) to those regulations and orders made under Part I which apply to Northern Ireland, or
 - (b) to the enforcement and execution of those regulations and orders,
 and in relation to Northern Ireland subsection (1) has effect subject to the following additional modifications—
 - (i) in paragraph (a), the reference to this Act includes a reference to any corresponding Northern Ireland enactment,
 - (ii) in paragraph (b), the reference to any Act includes a reference to any Northern Ireland enactment, and the reference to this Act includes a reference to any corresponding Northern Ireland enactment,
 - (iii) in paragraph (c), construe the reference to a magistrates' court as a reference to a court of summary jurisdiction,
 and this section applies to Northern Ireland so far as it relates to an Order in Council made under section 133 and extending to Northern Ireland.

119 Community provisions

- (1) The Ministers, as respects any directly applicable Community provision relating to food for which, in their opinion, it is appropriate to provide under this Act—
 - (a) may by regulations provide as they consider necessary or expedient for the purpose of securing that the Community provision is administered, executed and enforced under this Act; and
 - (b) may apply such of the provisions of this Act as may be specified in the regulations in relation to the Community provision with such modifications, if any, as may be so specified.
- (2) For the purpose of complying with any Community obligation, or for conformity with any provision made for that purpose, the Ministers may by regulations provide as to—
 - (a) the manner of sampling any food specified in the regulations, and the manner in which samples are to be dealt with, and
 - (b) the method to be used in analysing, testing or examining samples of any food so specified,and regulations made by the Ministers for that purpose, or for conformity with any provision so made, may modify or exclude any provision of this Act relating to the procuring or analysis of, or dealing with, samples or to evidence of the results of an analysis or test.

120 Statutory instruments

- (1) Under this Act—
 - (a) any power to make regulations or orders, and
 - (b) the Secretary of State's power to make a declaration under section 16(5) or section 17(5), is exercisable by statutory instrument, subject to section 4(2) of the Agriculture Act 1967 in respect of an order made under : section 57(2) of this Act.
- (2) A statutory instrument containing—
 - (a) regulations made, under Part I or Part II, or section 76(2), or section 119,
 - (b) an order made under section 5,
 - (c) an order made under section 43 ordering that section 40(1) shall cease to be in operation in any area, or an order under section 68, or
 - (d) an Order in Council made under section 133,is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order shall be made under section 17 unless a draft of it has been laid before Parliament and has been approved by resolution of each House.
- (4) A draft of any statutory instrument containing an order made under section 43 bringing section 40(1) into operation in any area shall be laid before Parliament.
- (5) In relation to Northern Ireland—
 - (a) subsection (1), and subsection (2) except paragraph (c), apply so far as they relate to regulations and orders made under Part I which apply to Northern Ireland, or to the enforcement and execution of those regulations and orders; and
 - (b) this section applies so far as it relates to an Order in Council made under section 133 which extends to Northern Ireland.

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121 Byelaws

- (1) The confirming authority in respect of byelaws made under this Act is the Secretary of State.
- (2) An authority who propose to apply to the Secretary of State for confirmation of any byelaws made under section 15 shall, in addition to complying with any other statutory requirements, publish in the London Gazette, at least one month before the application is made, notice of their intention to apply for confirmation.
- (3) In so far as any byelaws made under this Act conflict with regulations made under Part I, the regulations shall prevail.