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STATUTORY INSTRUMENTS

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**1990 No. 2486**

**The Food Safety Act 1990 (Consequential Modifications) (England and Wales) Order 1990**

**PART III**

**APPLICATION OF PROVISIONS OF THE ACT**

**Application of sections of the Food Safety Act**

5.—(1) After regulation 2 of the Regulations specified in Schedule 5 there shall be inserted the following regulation—

**“Application of sections 2, 3, 20, 21, 30(8), 33, 36 and 44 of the Act**

2A. The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and unless the context otherwise requires any reference in them to the Act shall be construed as a reference to these Regulations—

- section 2 (extended meaning of “sale” etc.);
- section 3 (presumption that food intended for human consumption);
- section 20 (offences due to fault of another person);
- section 21 (defence of due diligence);
- section 30(8) (which relates to documentary evidence);
- section 33 (obstruction etc. of officers);
- section 36 (offences by bodies corporate); and
- section 44 (protection of officers acting in good faith).”.

(2) The provisions of the Regulations (if any) specified in column 3 of Schedule 5 shall cease to have effect.

(3) After regulation 2 of the Regulations specified in Schedule 6 there shall be inserted the following regulation—

**“Application of sections 2, 3, 20, 21, 22, 30(8), 33, 36 and 44 of the Act**

2A. The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and unless the context otherwise requires any reference in them to the Act shall be construed as a reference to these Regulations—

- section 2 (extended meaning of “sale” etc.);
- section 3 (presumption that food intended for human consumption);
- section 20 (offences due to fault of another person);

section 21 (defence of due diligence);  
section 22 (defence of publication in the course of business);  
section 30(8) (which relates to documentary evidence);  
section 33 (obstruction etc. of officers);  
section 36 (offences by bodies corporate); and  
section 44 (protection of officers acting in good faith).”.

(4) The provisions of the Regulations specified in column 3 of Schedule 6 shall cease to have effect.

### **Application of other provisions**

6.—(1) For the provisions of the Regulations specified in column 3 of Schedule 7 there shall be substituted the following regulation bearing the same number—

#### **“Condemnation of food**

Where any food is certified by a food analyst as being food which it is an offence against these Regulations to sell or import that food may be treated for the purposes of section 9 of the Act as failing to comply with food safety requirements and section 8(3) shall apply for the purposes of these Regulations as it applies for the purposes of the Act.”.

(2) For the provisions of the Regulations specified in column 3 of Schedule 8 there shall be substituted the following provision bearing the same number—

“The following provisions of the Act shall apply for the purposes of these Regulations as they apply for the purposes of section 8, 14 or 15 of the Act and unless the context otherwise requires any reference in them to the Act shall be construed as a reference to these Regulations—

section 20 (offences due to fault of another person);  
section 21 (defence of due diligence); and  
section 44 (protection of officers acting in good faith).”.

(3) For the provisions of the Regulations specified in column 3 of Schedule 9 there shall be substituted the following paragraph bearing the same number—

“Where a food authority has refused to issue, or has withdrawn, a certificate the person aggrieved may carry on that business until the time to appeal has expired and, if an appeal is lodged, until the appeal is finally disposed of.”.

### **Time limits for prosecutions**

7. To the provisions of the Regulations specified in column 3 of Schedule 10 there shall be added at the end the following paragraph numbered sequentially—

“No prosecution for an offence under these Regulations which is triable either summarily or on indictment shall be begun after the expiry of—

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor, whichever is the earlier.”.