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STATUTORY INSTRUMENTS

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**1996 No. 1499**

**The Food Labelling Regulations 1996**

**PART IV**

**OFFENCES AND LEGAL PROCEEDINGS**

**Offences and penalties**

**44.**—(1) If any person—

- (a) sells any food which is not marked or labelled in accordance with the provisions of Part II of these Regulations, or
- (b) sells or advertises for sale any food in respect of which a claim is made, nutrition labelling is given or a description or a name is used in contravention of the provisions of Part III of these Regulations, or
- (c) sells any food from a vending machine in contravention of regulation 29, or
- (d) sells any food after the date shown in a “use by” date relating to it, or
- (e) being a person other than whichever of—
  - (i) the manufacturer,
  - (ii) the packer, or
  - (iii) the seller established within the European Community,

was originally responsible for so marking the food, removes or alters the appropriate durability indication relating to that food,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and be liable to be proceeded against and punished accordingly.

**Enforcement**

**45.**—(1) Subject to paragraph (2) of this regulation, each food authority shall enforce and execute these Regulations in its area.

(2) Each port health authority shall enforce and execute these Regulations in its district in relation to imported food.

(3) In this regulation “food authority” does not include—

- (a) the council of a district in a non-metropolitan county in England except—
  - (i) where the county functions have been transferred to that council pursuant to a structural change; or

- (ii) in relation to regulations 44(1)(d) and 44(1)(e);
- (b) the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple).

#### **Defence in case of alteration of appropriate durability indication**

**46.** In any proceedings for an offence under regulation 44(1)(e) it shall be a defence for the person charged to prove that each removal or alteration in respect of which the offence is alleged was effected under the written authorisation of a person capable of effecting that removal or alteration without contravention of that provision.

#### **Defence in relation to exports**

**47.** In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove—

- (a) that the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that it complies with that legislation; and
- (b) that the legislation complies with the provisions of Council Directive [79/112/EEC](#)(**1**) on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs, as amended(**2**), in the case of export to an EEA State.

#### **Application of various sections of the Food Safety Act 1990**

**48.** 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 is 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);
- section 44 (protection of officers acting in food faith).

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(1) OJNo. L33, 8.2.79, p.1.

(2) Act concerning the Conditions of Accession and Adjustment to the Treaties—Accession to the European Communities of the Kingdom of Spain and the Portuguese Republic (OJ No. L302, 15.11.85, p.218), Council Directive [85/7/EEC](#) (OJ No. L2, 3.1.85, p.22), Council Directive [86/197/EEC](#) (OJ No. L144, 29.5.86, p.38), Council Directive [89/395/EEC](#) (OJ No. L186, 30.6.89, p.17), Commission Directive [91/72/EEC](#) (OJ No. L42, 15.2.91, p.27), Commission Directive [93/102/EEC](#) (OJ No. L291, 25.11.93, p.14), as read with the EEA Agreement (OJ No. L1, 3.1.94, p.1).