



Food (Scotland) Act 2015

2015 asp 1

PART 1

FOOD STANDARDS SCOTLAND

Acquisition of information

19 Duty to acquire, compile and keep under review relevant information

- (1) For the purpose of enabling it to perform its other functions effectively and to operate in accordance with section 4, Food Standards Scotland is to acquire, compile and keep under review information about food matters and animal feeding stuffs matters.
- (2) The function in subsection (1) includes in particular—
 - (a) monitoring developments in science, technology and other fields of knowledge relating to food matters and animal feeding stuffs matters,
 - (b) carrying out, commissioning or co-ordinating research on food matters and animal feeding stuffs matters.

20 Observations with a view to obtaining information

- (1) For the purpose of exercising its function under section 19, Food Standards Scotland may carry out observations (or arrange for observations to be carried out on its behalf by any other person) with a view to obtaining information about—
 - (a) any aspect of the production or supply of food or food sources, or the consumption of food, or
 - (b) any aspect of the production, supply or use of animal feeding stuffs.
- (2) The information which may be sought through such observations includes in particular information about—
 - (a) food premises, food businesses or commercial operations being carried out in relation to food, food sources or contact materials,
 - (b) agricultural premises, agricultural businesses or agricultural activities,
 - (c) premises, businesses or operations involved in fish farming,

Status: This is the original version (as it was originally enacted).

- (d) premises, businesses or operations involved in the production, supply or use of animal feeding stuffs.

(3) In this section—

- “agricultural activity” has the same meaning as in the Agriculture Act 1947,
- “agricultural business” has the same meaning as in section 1 of the Farm Land and Rural Development Act 1988,
- “agricultural premises” means any premises used for the purposes of an agricultural business.

21 Powers for persons carrying out observations

(1) Any member of staff or other individual may, if authorised to do so by Food Standards Scotland, exercise the powers specified in subsection (2) for the purpose of carrying out observations under section 20 in relation to a particular matter.

(2) The powers are—

- (a) entering premises (other than a dwelling house) at a reasonable time,
- (b) taking samples of any articles or substances on the premises,
- (c) taking samples from any food source on the premises,
- (d) inspecting and copying any information in a recorded form on the premises which relates to a business which is the subject of the observations (and where such information is in electronic form, requiring the information to be produced in a legible form in which it may be copied or taken away),
- (e) requiring any person carrying on a business which is the subject of the observations to provide such facilities or information and such other assistance as the authorised person reasonably requests.

(3) The reference in subsection (2)(d) to information which relates to a business includes a reference to information which—

- (a) relates to the health of a person who has, may have or may come into contact with food or food sources in the course of that person’s work for the business, and
- (b) was acquired or compiled for the purpose of assessing, or is kept for the purpose of recording, matters affecting the person’s suitability for working in the production or supply of food or food sources (including any risks to public health which may arise if the person comes into contact with any food or food source).

(4) An authorisation under subsection (1)—

- (a) must be in writing,
- (b) may include limitations or conditions (including conditions relating to hygiene precautions to be taken while exercising powers in pursuance of the authorisation).

(5) The powers specified in subsection (2) may be exercised only if it appears to the authorised person to be necessary to do so for the purpose of carrying out the observations concerned.

(6) An authorised person must if so required—

- (a) produce evidence of the person’s identity and authorisation before exercising a power in pursuance of the authorisation,

- (b) provide a document identifying any sample taken, or information copied, under those powers.

(7) In this section, “authorised person” means a person authorised under subsection (1).

22 Offences in relation to section 21

(1) Where subsection (2) applies, an authorised person commits an offence if the person makes use of or discloses to any other person any information obtained while on premises entered in exercise of the power in section 21(2)(a).

(2) This subsection applies if—

- (a) the information relates to a trade secret, and
- (b) the information is used or the disclosure is made other than in performance of the authorised person’s duty.

(3) A person commits an offence if the person—

- (a) intentionally obstructs an authorised person in exercising a power in section 21(2)(a), (b), (c) or (d),
- (b) fails without reasonable excuse to comply with any requirement imposed under section 21(2)(e), or
- (c) in purported compliance with a requirement imposed under section 21(2)(e)—
 - (i) provides information which the person knows to be false or misleading in a material way, or
 - (ii) recklessly provides information which is false or misleading in a material way.

(4) A person who commits an offence under subsection (1) or (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) In this section, “authorised person” means a person authorised under section 21(1).