Food (Scotland) Act 2015

2015 asp 1

PART 2

FOOD AND FEEDING STUFFS

Food information

33 Food information

After section 15 of the 1990 Act insert—

"Food information

15A Meaning of "food information" etc.

In this Act—

(a) "food information" has the same meaning as it has in Regulation (EU) No. 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers;

(b) "food information law" means any enactment relating to food information as the Scottish Ministers may by regulations specify.

15B Contravention of food information law: seizure of food etc.

(1) This section applies where it appears to an authorised officer of a food authority, on an inspection carried out under section 9 above or otherwise, that food information law is being, or has been, contravened in relation to any food intended for human consumption which is placed on the market within the meaning of Regulation (EC) No. 178/2002.

(2) The authorised officer may—

(a) give notice that, until the notice is withdrawn—

(i) the food, or any specified portion of it, is not to be used for human consumption; and

Status: *Point in time view as at 01/04/2015.*
Changes to legislation: *There are currently no known outstanding effects for the Food (Scotland) Act 2015, Cross Heading: Food information. (See end of Document for details)*

(ii) the food, or any specified portion of it, and any related food information, or any specified part of it, is not to be removed (or is not to be removed except to some place specified in the notice); or

(b) seize the food and remove it in order to have it dealt with by the sheriff.

(3) Notice under subsection (2)(a) above is to be given to—

(a) the person in charge of the food; and

(b) the owner of the food (where not the person in charge of the food).

(4) But notice need not be given in pursuance of subsection (3)(b) above if the authorised officer, after making reasonable inquiries, does not know who owns the food.

(5) Any person who knowingly contravenes the requirements of a notice under subsection (2)(a) above commits an offence.

(6) An authorised officer who gives a notice under subsection (2)(a) above must, as soon as is reasonably practicable and in any event within 21 days, determine whether or not food information law has been contravened in relation to the food in respect of which the notice was given.

(7) After making a determination under subsection (6) above, the authorised officer must—

(a) if satisfied that food information law has not been contravened, forthwith withdraw the notice; or

(b) if not so satisfied, seize the food and remove it in order to have it dealt with by the sheriff.

(8) An authorised officer who seizes and removes food under subsection (2)(b) or (7)(b) above may also—

(a) copy, make extracts of or take away any food information relating to the food that has been seized;

(b) where any such food information is in electronic form, require the information to be produced in a legible form in which it may be copied or taken away.

(9) An authorised officer who seizes and removes food under subsection (2)(b) or (7)(b) above must inform the person in charge of the food and the owner of the food (where not the person in charge of the food) of the officer's intention to have it dealt with by the sheriff.

(10) But the owner of the food need not be informed in pursuance of subsection (9) above if the authorised officer, after making reasonable inquiries, does not know who owns the food.

(11) Any person who might be liable to a prosecution for contravening food information law in relation to any food seized and removed under subsection (2)(b) or (7)(b) above is, if the person attends before the sheriff by whom the food falls to be dealt with, entitled to be heard and to call witnesses.

(12) If it appears to the sheriff that food information law has been contravened in relation to any food seized and removed under subsection (2)(b) or (7)(b) above, the sheriff may make such order as the sheriff considers appropriate in respect of the food and any food information relating to it.

(13) An order made under subsection (12) above may, in particular, order—

(a) that the food be destroyed or otherwise disposed of so as to prevent it from being used for human consumption;

(b) that any food information relating to the food be modified, destroyed or otherwise disposed of;

(c) that any food which is fit for human consumption (and any related food information, modified as the sheriff considers appropriate) be—

(i) returned to the person who was in charge of the food; or

(ii) distributed to such other person as the sheriff may determine.

(14) An order made under subsection (12) above—

(a) must, where the owner of the food is known, require the owner to meet any expenses reasonably incurred in connection with any destruction, modification, disposal, return or distribution of any food or food information which is carried out in pursuance of the order; and

(b) may require the owner of the food to meet any expenses reasonably incurred by the food authority in connection with any action taken by the authorised officer, or otherwise by or on behalf of the authority, in respect of any food or food information to which the order relates.

(15) Subsection (16) below applies if—

(a) a notice under subsection (2)(a) above is withdrawn; or

(b) the sheriff refuses to make an order under subsection (12) above in respect of any food seized and removed under subsection (2)(b) or (7)(b) above (or any food information which relates to it).

(16) Where this subsection applies, the food authority must compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.

(17) Any disputed question as to the right to or the amount of any compensation payable under subsection (16) above is to be submitted to arbitration for resolution.

(18) Until the Arbitration (Scotland) Act 2010 is in force in relation to any arbitration carried out in pursuance of subsection (17) above, that Act applies as if it were in force in relation to that arbitration.

15C Duty to report non-compliance with food information law

(1) A food business operator must as soon as reasonably practicable inform Food Standards Scotland if the food business operator—

(a) is, or has been, in charge of any food which is intended for human consumption and has been placed on the market within the meaning of Regulation (EC) No. 178/2002; and

(b) considers or has reason to believe that food information law is being contravened in relation to the food.

(2) Any person who fails to comply with subsection (1) above shall be guilty of an offence.

(3) For the purposes of subsection (1)(a) above, a food business operator is to be treated as being, or having been, in charge of any food which it has—

(a) received;

(b) imported;

(c) produced;

(d) processed;

(e) manufactured;

(f) distributed; or

(g) otherwise placed on the market within the meaning of Regulation (EC) No. 178/2002.

(4) For the purposes of this Act, "food business operator" is to be construed in accordance with Article 3 of Regulation (EC) No 178/2002.

15D Power to obtain information

(1) This section applies where a food business operator has informed Food Standards Scotland under section 15C(1) above.

(2) The food business operator must as soon as reasonably practicable provide any further information which is reasonably required by Food Standards Scotland which relates to—

(a) the food (and any food information relating to it);

(b) the circumstances which led the food business operator to inform Food Standards Scotland under section 15C(1) above.

(3) Any person who fails to comply with a requirement under subsection (2) above shall be guilty of an offence.".

Commencement Information

I1 S. 33 in force at 1.4.2015 by S.S.I. 2015/99, **art. 2**

Status:
Point in time view as at 01/04/2015.

Changes to legislation:
There are currently no known outstanding effects for the Food (Scotland) Act 2015, Cross Heading: Food information.