



# Food Safety Act 1990

## 1990 CHAPTER 16

### PART I

#### PRELIMINARY

##### **Modifications etc. (not altering text)**

- C1** Pts. I-III (ss. 1-39) functions transferred (10.1.1992) by S.I. 1991/2913, art. 8, **Sch. 2**  
Pts. I-III (ss. 1-39): certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**
- C2** Pts. I-III (ss. 1-39) applied (with modifications) (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**

#### **1 Meaning of “food” and other basic expressions.**

- (1) In this Act “food” includes—
- (a) drink;
  - (b) articles and substances of no nutritional value which are used for human consumption;
  - (c) chewing gum and other products of a like nature and use; and
  - (d) articles and substances used as ingredients in the preparation of food or anything falling within this subsection.
- (2) In this Act “food” does not include—
- (a) live animals or birds, or live fish which are not used for human consumption while they are alive;
  - (b) fodder or feeding stuffs for animals, birds or fish;
  - (c) controlled drugs within the meaning of the <sup>M1</sup>Misuse of Drugs Act 1971; or
  - (d) subject to such exceptions as may be specified in an order made by the Ministers—
    - (i) medicinal products within the meaning of the <sup>M2</sup>Medicines Act 1968 in respect of which product licences within the meaning of that Act are for the time being in force; or

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(ii) other articles or substances in respect of which such licences are for the time being in force in pursuance of orders under section 104 or 105 of that Act (application of Act to other articles and substances).

(3) In this Act, unless the context otherwise requires—

“business” includes the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not, and any undertaking or activity carried on by a public or local authority;

“commercial operation”, in relation to any food or contact material, means any of the following, namely—

- (a) selling, possessing for sale and offering, exposing or advertising for sale;
- (b) consigning, delivering or serving by way of sale;
- (c) preparing for sale or presenting, labelling or wrapping for the purpose of sale;
- (d) storing or transporting for the purpose of sale;
- (e) importing and exporting;

and, in relation to any food source, means deriving food from it for the purpose of sale or for purposes connected with sale;

“contact material” means any article or substance which is intended to come into contact with food;

“food business” means any business in the course of which commercial operations with respect to food or food sources are carried out;

“food premises” means any premises used for the purposes of a food business;

“food source” means any growing crop or live animal, bird or fish from which food is intended to be derived (whether by harvesting, slaughtering, milking, collecting eggs or otherwise);

“premises” includes any place, any vehicle, stall or moveable structure and, for such purposes as may be specified in an order made by the Ministers, any ship or aircraft of a description so specified.

(4) The reference in subsection (3) above to preparing for sale shall be construed, in relation to any contact material, as a reference to manufacturing or producing for the purpose of sale.

**Modifications etc. (not altering text)**

**C3** S. 1 applied (with modifications)(1.1.1995) by S.I. 1994/3144, reg. 9(14)

**Marginal Citations**

**M1** 1971 c. 38.

**M2** 1968 c. 67.

**2 Extended meaning of “sale” etc.**

(1) For the purposes of this Act—

- (a) the supply of food, otherwise than on sale, in the course of a business; and
- (b) any other thing which is done with respect to food and is specified in an order made by the Ministers,

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shall be deemed to be a sale of the food, and references to purchasers and purchasing shall be construed accordingly.

(2) This Act shall apply—

- (a) in relation to any food which is offered as a prize or reward or given away in connection with any entertainment to which the public are admitted, whether on payment of money or not, as if the food were, or had been, exposed for sale by each person concerned in the organisation of the entertainment;
- (b) in relation to any food which, for the purpose of advertisement or in furtherance of any trade or business, is offered as a prize or reward or given away, as if the food were, or had been, exposed for sale by the person offering or giving away the food; and
- (c) in relation to any food which is exposed or deposited in any premises for the purpose of being so offered or given away as mentioned in paragraph (a) or (b) above, as if the food were, or had been, exposed for sale by the occupier of the premises;

and in this subsection “entertainment” includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

#### **Modifications etc. (not altering text)**

- C4** S. 2 applied (9. 4. 1992) by S.I. 1992/496, **reg. 7(1)(a)**
- C5** S. 2 applied (13. 9. 1992) by S.I. 1992/1971, **reg.9(a)**  
S. 2 applied (14. 9. 1992) by S.I. 1992/1978, **reg.7(a)**
- C6** S. 2 applied (with modifications) (31.12.1992) by S.I. 1992/3236, **reg. 11(1)**  
S. 2 applied (with modifications) (5.11.1991) by S.I. 1991/2486, **reg. 7(1)**  
S. 2 applied (14.7.1993) by S.I. 1993/1520, **reg. 2(2)(a)**.  
S. 2 applied (29.7.1993) by S.I. 1993/1658, **reg.7(a)**.  
S. 2 applied (with modifications)(1.4.1994) by S.I. 1994/743, **reg. 8(1)(a)**  
S. 2 applied (with modifications)(2.9.1994) by S.I. 1994/2127, **reg. 5**  
S. 2 applied (with modifications) (1.1.1995) by S.I. 1994/3082, **reg. 21**  
S. 2 applied (with modifications)(1.3.1995) by S.I. 1995/77, **reg. 23**  
S. 2 applied (with modifications)(1.4.1995) by: S.I. 1995/539, **reg. 22**; S.I. 1995/540, **reg. 24**  
S. 2 applied (with modifications) (9.5.1995) by S.I. 1995/1086, **reg. 20(1)(a)**  
S. 2 applied (with modifications) (15.6.1995) by S.I. 1995/1372, **reg. 20(1)(a)**  
S. 2 applied (with modifications) (10.7.1995) by S.I. 1995/1544, **reg. 10**  
S. 2 applied (with modifications) (15.9.1995) by S.I. 1995/1763, **reg. 7(a)**  
S. 2 applied (with modifications) (15.9.1995) by S.I. 1995/2200, **reg. 18**  
S. 2 applied (with modifications) (20.9.1995) by S.I. 1995/2148, **reg. 17**  
S. 2 applied (with modifications) (1.1.1996) by S.I. 1995/3116, **reg. 8**  
S. 2 applied (with modifications) (1.1.1996) by S.I. 1995/3123, **reg. 9(a)**  
S. 2 applied (with modifications) (1.1.1996) by S.I. 1995/3124, **reg. 11(a)**  
S. 2 applied (with modifications) (1.1.1996) by S.I. 1995/3187, **reg. 9**  
S. 2 applied (with modifications) (1.1.1996) by S.I. 1995/3202, **reg. 11**  
S. 2 applied (with modifications) (1.1.1996) by S.I. 1995/3240, **reg. 10(a)** (which S.I. was revoked (1.7.1996) by S.I. 1996/1499, **reg. 49, Sch. 9**)  
S. 2 applied (with modifications) (1.1.1996) by S.I. 1995/3205, **reg. 14**  
S. 2 applied (with modifications) (29.3.1996) by S.I. 1996/961, **art. 4(a)**  
S. 2 applied (with modifications) (1.7.1996) by S.I. 1996/1499, **reg. 48**  
S. 2 applied (with modifications) (1.7.1996) by S.I. 1996/1502, **reg. 6**  
S. 2 applied (with modifications) (5.7.1996) by S.I. 1996/1743, **reg. 5** (which S.I. was revoked (1.9.1996) by S.I. 1996/2097, **reg. 8**)

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- S. 2 applied (with modifications) (1.9.1996) by S.I. 1996/2097, **reg. 6**
- S. 2 applied (with modifications) (16.6.1997) by S.I. 1997/1335, **reg. 6**
- S. 2 applied (with modifications) (30.6.1997) by S.I. 1995/1544, **reg. 10(1)**(as substituted (30.6.1997) by S.I. 1997/1414, **reg. 3**)
- S. 2 applied (with modifications) (11.8.1997) by S.I. 1997/1729, **reg. 34(1)(a)**
- S. 2 applied (with modifications) (17.11.1997) by S.I. 1997/2537, **reg. 9**
- S. 2 applied (with modifications) (31.3.1999) by: S.I. 1997/2042, **reg. 9**; S.I. 1997/2182, **reg. 9**
- S. 2 applied (with modifications) (16.12.1997) by S.I. 1997/2959, **reg. 11**
- S. 2 applied (with modifications) (1.1.1998) by S.I. 1997/2965, **reg. 30**
- S. 2 applied (with modifications) (19.2.1998) by S.I. 1998/141, **reg. 10(a)**
- S. 2 applied (with modifications) (1.4.1998) by S.I. 1998/616, **reg. 6(1)(a)**
- S. 2 applied (with modifications) (31.10.1998) by S.I. 1998/2424, **reg. 8**
- S. 2 applied (with modifications) (1.10.1999) by S.S.I. 1999/34, **reg. 8(1)**
- s. 2 applied (with modifications) (17.12.1999) by S.S.I. 1999/186, **art. 9**
- S. 2 applied (with modifications) (19.3.1999) by 1996/1499 reg. 48 (as substituted by S.I. 1999/747, **reg. 11**)
- s. 2 applied (with modifications) (30.6.1999) by S.I. 1999/1540, **reg. 19(1)(a)**
- s. 2 applied (with modifications) (1.10.1999) by S.I. 1999/2457, **reg. 8(1)**
- C7 S. 2 applied (with modifications) (1.7.1992) by S.I. 1992/1357, **reg. 9**

### 3 Presumptions that food intended for human consumption.

- (1) The following provisions shall apply for the purposes of this Act.
- (2) Any food commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold or, as the case may be, to have been or to be intended for sale for human consumption.
- (3) The following, namely—
  - (a) any food commonly used for human consumption which is found on premises used for the preparation, storage, or sale of that food; and
  - (b) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or sale of that food,
 shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing food for sale, for human consumption.
- (4) Any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

#### Modifications etc. (not altering text)

- C8 S. 3 extended (with modifications) (8.1.1992) by S.I. 1991/2843, **reg. 22(1)(a)**
- C9 S. 3 applied: (9.4.1992) by S.I. 1992/496, **reg. 7(1)(b)**; (13.9.1992) by S.I. 1992/1971, **reg. 9(b)**; (14.9.1992) by S.I. 1992/1978, **reg. 7(b)**; (1.10.1992) by S.I. 1992/2037, **reg. 23(a)** (which S.I. was revoked (1.4.1995) by S.I. 1995/539, **reg. 25**, Sch. 22 (with regs. 3(2), 25, **Sch. 22**))
- S. 3 applied: (14.7.1993) by S.I. 1993/1520, **reg. 2(2)(b)**; (29.7.1993) by S.I. 1993/1658, **reg. 7(b)**
- C10 S. 3 applied (with modifications) (5.11.1991) by S.I. 1991/2486, **reg. 7(1)**
- S. 3 applied (with modifications) (1.7.1992) by S.I. 1992/1357, **reg. 9**

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- S. 3 applied (with modifications): (1.1.1993 for certain purposes and 15.1.1993 otherwise) by S.I. 1992/3163, **regs. 1, 18(1)** (which S.I. was revoked (29.4.1998) by S.I. 1998/994, **reg. 59(1), Sch. 5**); (1.1.1993 for certain purposes and 15.1.1993 otherwise) by S.I. 1992/3164, **regs. 1, 19(1)** (which S.I. was revoked (29.4.1998) by S.I. 1998/994, **reg. 59(1), Sch. 5**); (31.12.1992) by S.I. 1992/3236, **reg. 11(1)**
- S. 3 applied (with modifications) (1.4.1994) by S.I. 1994/743, **reg. 8(1)(b)**; (1.5.1994) by S.I. 1994/1029, **reg. 25(a)** (which S.I. was revoked (1.4.1995) by S.I. 1995/540, **reg. 26** (with **reg. 3(5)**)); (2.9.1994) by S.I. 1994/2127, **reg. 5**
- S. 3 applied (with modifications): (1.3.1995) by S.I. 1995/77, **reg. 23**; (1.4.1995): by S.I. 1995/539, **reg. 22** and S.I. 1995/540, **reg. 24**; (1.4.1995) by S.I. 1995/614, **reg. 11**; (9.5.1995) by S.I. 1995/1086, **reg. 20(1)(b)**; (15.6.1995) by S.I. 1995/1372, **reg. 20(1)(b)**; (10.7.1995) by S.I. 1995/1544, **reg. 10**; (15.9.1995) by S.I. 1995/1763, **reg. 7(b)**; (15.9.1995) by S.I. 1995/2200, **reg. 18**; (20.9.1995) by S.I. 1995/2148, **reg. 17**; (1.1.1996) by S.I. 1995/3116, **reg. 8**; (1.1.1996) by S.I. 1995/3123, **reg. 9(b)** and S.I. 1995/3124, **reg. 11(b)**; (1.1.1996) by S.I. 1995/3187, **reg. 9**; (1.1.1996) by S.I. 1995/3202, **reg. 11**; (1.1.1996) by S.I. 1995/3205, **reg. 14**; (1.1.1996) by S.I. 1995/3240, **reg. 10(b)** (which S.I. was revoked (1.7.1996) by S.I. 1996/1499, **reg. 49, Sch. 9**)
- S. 3 applied (with modifications): (29.3.1996) by S.I. 1996/961, **art. 4(b)**; (1.7.1996): by S.I. 1996/1499, **reg. 48** and S.I. 1996/1502, **reg. 6**; (5.7.1996) by S.I. 1996/1743, **reg. 5** (which S.I. was revoked (1.9.1996) by S.I. 1996/2097, **reg. 8**); (1.9.1996) by S.I. 1996/2097, **reg. 6**
- S. 3 applied (with modifications): (16.6.1997) by S.I. 1997/1335, **reg. 6**; (30.6.1997) by S.I. 1995/1544, **reg. 10(1)** (as substituted (30.6.1997) by S.I. 1997/1414, **reg. 3**); (18.7.1997) by S.I. 1997/1729, **reg. 34(1)**; (17.11.1997) by S.I. 1997/2537, **reg. 9**; (31.3.1999): by S.I. 1997/2042, **reg. 9** and S.I. 1997/2182, **reg. 9**; (16.12.1997) by S.I. 1997/2959, **reg. 11**; (1.1.1998) by S.I. 1997/2965, **reg. 30**
- S. 3 applied (with modifications): (19.2.1998) by S.I. 1998/141, **reg. 10(b)**; (29.4.1998) by S.I. 1998/994, **reg. 55(1)(a)**; (31.10.1998) by S.I. 1998/2424, **reg. 8(b)**
- S. 3 applied (with modifications): (1.10.1999) by S.S.I. 1999/34, **reg. 8(1)**; (17.12.1999) by S.S.I. 1999/186 art. 9; (19.3.1999) by S.I. 1996/1499 **reg. 48** (as substituted by 1999/747, **reg. 11**); (17.12.1999) by S.I. 1999/1540, **reg. 19(1)(b)**; (1.10.1999) by S.I. 1999/2457, **reg. 8(1)**
- S. 3 applied (with modifications): (E.) (10.4.2000) by S.I. 2000/768, **reg. 10(1)**; (S.) (10.4.2000) by S.S.I. 2000/83, **reg. 10(1)**; (W.) (25.7.2000) by S.I. 2000/1925, **reg. 10(1)**; (E.) (15.1.2001) by S.I. 2000/3323, **reg. 10(b)**; (W.) (1.11.2001) by S.I. 2000/1866, **reg. 7(b)**; (S.) (1.11.2001) by S.S.I. 2000/130, **reg. 7(b)**; (E.) (1.11.2001) by S.I. 2000/845, **reg. 7(b)**
- S. 3 applied (with modifications): (S.) (17.3.2001) by S.S.I. 2001/38, **reg. 10**; (W.) (1.5.2001) by S.I. 2001/1361, **reg. 8(1)** and S.I. 2001/1440, **reg. 10(b)**
- S. 3 applied (with modifications): (E.) (16.2.2002) by S.I. 2002/334, **art. 5(1)(a)**; (S.) (16.2.2002) by S.S.I. 2002/64, **art. 5(1)(a)**; (W.) (23.2.2002) by S.I. 2002/402, **art. 5(1)(a)**; (E.W.) (8.3.2002) by S.I. 2002/333, **reg. 6(b)**; (S.) (8.3.2002) by S.S.I. 2002/50, **reg. 6(b)**; (E.) (18.6.2002) by S.I. 2002/890, **reg. 7(1)(a)**; (S.) (1.7.2002) by S.S.I. 2002/267, **reg. 7(1)(a)**; (W.) (2.8.2002) by S.I. 2002/1886, **reg. 7(1)(a)**; (E.) (5.8.2002 for certain purposes and otherwise 1.4.2004) by S.I. 2002/1817, **regs. 1(2)(3), 9(b)**; (S.) (23.9.2002 for certain purposes and otherwise 1.4.2004) by S.S.I. 2002/397, **regs. 1(2)(3), 8(b)**; (W.) (31.12.2002 for certain purposes and otherwise 1.4.2004) by S.I. 2002/2939, **regs. 1(2)(3), 9(b)**; (S.) (1.1.2003) by S.S.I. 2002/523, **reg. 5(1)(b)**; (W.) (9.1.2003) by S.I. 2002/3157, **reg. 5(1)(b)**; (E.) (13.1.2003) by S.I. 2002/3169, **reg. 5(1)(b)**
- C11** S. 3(4) applied (1.1.1993) by S.I. 1992/3145, **reg. 11(2)** (which S.I. was revoked (1.7.1998) by S.I. 1998/1376, **reg. 14**)
- S. 3(4) applied (1.7.1998) by S.I. 1998/1376, **reg. 12(2)**

#### 4 Ministers having functions under Act.

(1) In this Act—

“the Minister” means, subject to subsection (2) below—

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- (a) in relation to England and Wales, the Minister of Agriculture, Fisheries and Food or the Secretary of State;
- (b) in relation to Scotland, the Secretary of State;
  - “the Ministers” means—
  - (a) in relation to England and Wales, the following Ministers acting jointly, namely, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales;
  - (b) in relation to Scotland, the Secretary of State.
- (2) In this Act, in its application to emergency control orders, “the Minister” means the Minister of Agriculture, Fisheries and Food or the Secretary of State.

## 5 Food authorities and authorised officers.

- (1) Subject to subsections (3) and (4) below, the food authorities in England and Wales are—
  - (a) as respects each London borough, district or non-metropolitan county, the council of that borough, district or county;
  - (b) as respects the City of London (including the Temples), the Common Council;
  - (c) as respects the Inner Temple or the Middle Temple, the appropriate Treasurer.
- (2) Subject to subsection (3)(a) below, the food authorities in Scotland are the islands or district councils.
- (3) Where any functions under this Act are assigned—
  - (a) by an order under section 2 or 7 of the <sup>M3</sup>Public Health (Control of Disease) Act 1984, to a port health authority or, by an order under section 172 of the <sup>M4</sup>Public Health (Scotland) Act 1897, to a port local authority;
  - (b) by an order under section 6 of the <sup>M5</sup>Public Health Act 1936, to a joint board for a united district; or
  - (c) by an order under paragraph 15(6) of Schedule 8 to the <sup>M6</sup>Local Government Act 1985, to a single authority for a metropolitan county,
 any reference in this Act to a food authority shall be construed, so far as relating to those functions, as a reference to the authority to whom they are so assigned.
- (4) The Ministers may by order provide, either generally or in relation to cases of a particular description, that any functions under this Act which are exercisable concurrently—
  - (a) as respects a non-metropolitan district, by the council of that district and the council of the non-metropolitan county;
  - (b) as respects the Inner Temple or the Middle Temple, by the appropriate Treasurer and the Common Council,
 shall be exercisable solely by such one of those authorities as may be specified in the order.
- (5) In this section—
  - “the appropriate Treasurer” means the Sub-Treasurer in relation to the Inner Temple and the Under Treasurer in relation to the Middle Temple;
  - “the Common Council” means the Common Council of the City of London;
  - “port local authority” includes a joint port local authority.

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- (6) In this Act “authorised officer”, in relation to a food authority, means any person (whether or not an officer of the authority) who is authorised by them in writing, either generally or specially, to act in matters arising under this Act; but if regulations made by the Ministers so provide, no person shall be so authorised unless he has such qualifications as may be prescribed by the regulations.

**Modifications etc. (not altering text)**

- C12** S. 5(6) applied (9.5.1995) by S.I. 1995/1086, reg. 20(2)  
S. 5(6) applied (15.6.1995) by S.I. 1995/1372, reg. 20(2)

**Marginal Citations**

- M3** 1984 c. 22.  
**M4** 1897 c. 38.  
**M5** 1936 c. 49.  
**M6** 1985 c. 51.

**6 Enforcement of Act.**

- (1) In this Act “the enforcement authority”, in relation to any provisions of this Act or any regulations or orders made under it, means the authority by whom they are to be enforced and executed.
- (2) Every food authority shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.
- (3) The Ministers may direct, in relation to cases of a particular description or a particular case, that any duty imposed on food authorities by subsection (2) above shall be discharged by the Ministers or the Minister and not by those authorities.
- (4) Regulations or orders under this Act shall specify which of the following authorities are to enforce and execute them, either generally or in relation to cases of a particular description or a particular area, namely—
- (a) the Ministers, the Minister, food authorities and such other authorities as are mentioned in section 5(3) above; and
  - (b) in the case of regulations, the Commissioners of Customs and Excise;
- and any such regulations or orders may provide for the giving of assistance and information, by any authority concerned in the administration of the regulations or orders, or of any provisions of this Act, to any other authority so concerned, for the purposes of their respective duties under them.
- (5) An enforcement authority in England and Wales may institute proceedings under any provisions of this Act or any regulations or orders made under it and, in the case of the Ministers or the Minister, may take over the conduct of any such proceedings which have been instituted by some other person.

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