



# Food Safety Act 1990

## 1990 CHAPTER 16

### PART II

#### MAIN PROVISIONS

##### *Regulations*

#### **16 Food safety and consumer protection.**

- (1) [<sup>F1</sup>the Secretary of State] may by regulations make—
- (a) provision for requiring, prohibiting or regulating the presence in food or food sources of any specified substance, or any substance of any specified class, and generally for regulating the composition of food;
  - (b) provision for securing that food is fit for human consumption and meets such microbiological standards (whether going to the fitness of the food or otherwise) as may be specified by or under the regulations;
  - (c) provision for requiring, prohibiting or regulating the use of any process or treatment in the preparation of food;
  - (d) provision for securing the observance of hygienic conditions and practices in connection with the carrying out of commercial operations with respect to food or food sources;
  - [<sup>F2</sup>(da) provision for a food hygiene information scheme;]
  - (e) provision for imposing requirements or prohibitions as to, or otherwise regulating, the labelling, marking, presenting or advertising of food, and the descriptions which may be applied to food; and
  - (f) such other provision with respect to food or food sources, including in particular provision for prohibiting or regulating the carrying out of commercial operations with respect to food or food sources, as appears to them to be necessary or expedient—
    - (i) for the purpose of securing that food complies with food safety requirements or in the interests of the public health; or
    - (ii) for the purpose of protecting or promoting the interests of consumers.

*Status: Point in time view as at 01/07/2022.*

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- (2) [<sup>F1</sup>the Secretary of State] may also by regulations make provision—
- (a) for securing the observance of hygienic conditions and practices in connection with the carrying out of commercial operations with respect to contact materials which are intended to come into contact with food intended for human consumption;
  - (b) for imposing requirements or prohibitions as to, or otherwise regulating, the labelling, marking or advertising of such materials, and the descriptions which may be applied to them; and
  - (c) otherwise for prohibiting or regulating the carrying out of commercial operations with respect to such materials.
- (3) Without prejudice to the generality of subsection (1) above, regulations under that subsection may make any such provision as is mentioned in Schedule 1 to this Act.
- [<sup>F3</sup>(3A) Regulations under subsection (1)(e) may amend Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers.
- (3B) The inclusion in that Regulation of savings in respect of the power to make regulations under this Act of a particular kind is not to be taken as in any way limiting the generality of the provision that may be made by virtue of subsections (1)(e) and (3A).]
- (4) In making regulations under subsection (1) above, [<sup>F1</sup>the Secretary of State] shall have regard to the desirability of restricting, so far as practicable, the use of substances of no nutritional value as foods or as ingredients of foods.
- (5) In subsection (1) above and Schedule 1 to this Act, unless the context otherwise requires—
- (a) references to food shall be construed as references to food intended for sale for human consumption; and
  - (b) references to food sources shall be construed as references to food sources from which such food is intended to be derived.

#### Textual Amendments

- F1** Words in s. 16(1)(2)(4) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 8** (with s. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F2** S. 16(1)(da) inserted (S.) (1.4.2015) by Food (Scotland) Act 2015 (asp 1), **ss. 34(1), 63(2)** (with s. 62); S.S.I. 2015/99, **art. 2**
- F3** S. 16(3A)(3B) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 174(1), 186(6)**; S.I. 2022/734, **reg. 2(a), Sch.** (with regs. 13, 29, 30)

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

- C1** S. 16 transfer of functions (23.3.2005) by Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849), **art. 1, Sch.** (with art. 6)

## 17 Enforcement of [<sup>F4</sup>EU] provisions.

- (1) [<sup>F5</sup>the Secretary of State] may by regulations make such provision with respect to food, food sources or contact materials, including in particular provision for prohibiting or regulating the carrying out of commercial operations with respect to food, food sources or contact materials, as appears to [<sup>F6</sup>him ]to be called for by any [<sup>F4</sup>EU] obligation.

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- (2) As respects any directly applicable [F<sup>4</sup>EU] provision which relates to food, food sources or contact materials and for which, in [F<sup>6</sup>his] opinion, it is appropriate to provide under this Act, [F<sup>5</sup>the Secretary of State] may by regulations—
- (a) make such provision as [F<sup>6</sup>he considers] necessary or expedient for the purpose of securing that the [F<sup>4</sup>EU] provision is administered, executed and enforced under this Act; and
  - (b) apply such of the provisions of this Act as may be specified in the regulations in relation to the [F<sup>4</sup>EU] provision with such modifications, if any, as may be so specified.
- (3) In subsections (1) and (2) above references to food or food sources shall be construed in accordance with section 16(5) above.

#### Textual Amendments

- F4** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3)4(2)6(4)(5))
- F5** Words in s. 17(1)(2) substituted (1.4.2000) by [1999 c. 28, s. 40\(1\)](#), [Sch. 5 para. 8](#) (with ss. 38, 40(2)); [S.I. 2000/1066](#), art. 2
- F6** Words in s. 17(1)(2) substituted (1.4.2000) by [1999 c. 28, s. 40\(1\)](#), [Sch. 5 para. 12](#) (with ss. 38, 40(2)); [S.I. 2000/1066](#), art. 2

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

- C2** S. 17 transfer of functions (23.3.2005) by [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2005 \(S.I. 2005/849\)](#), art. 1, [Sch.](#) (with art. 6)

## 18 Special provisions for particular foods etc.

- (1) [F<sup>7</sup>the Secretary of State] may by regulations make provision—
- (a) for prohibiting the carrying out of commercial operations with respect to novel foods, or food sources from which such foods are intended to be derived, of any class specified in the regulations;
  - (b) for prohibiting the carrying out of such operations with respect to genetically modified food sources, or foods derived from such food sources, of any class so specified; or
  - (c) for prohibiting the importation of any food of a class so specified,
- and (in each case) for excluding from the prohibition any food or food source which is of a description specified by or under the regulations and, in the case of a prohibition on importation, is imported at an authorised place of entry.
- (2) [F<sup>8</sup>The Secretary of State] may also by regulations—
- (a) prescribe, in relation to milk of any description, such a designation (in this subsection referred to as a “special designation”) as [the Secretary of State considers] appropriate;
  - (b) provide for the issue by enforcement authorities of licences to producers and sellers of milk authorising the use of a special designation; and
  - (c) prohibit, without the use of a special designation, all sales of milk for human consumption, other than sales made with [the Secretary of State’s].
- (3) In this section—

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“authorised place of entry” means any port, aerodrome or other place of entry authorised by or under the regulations and, in relation to food in a particular consignment, includes any place of entry so authorised for the importation of that consignment;

“description”, in relation to food, includes any description of its origin or of the manner in which it is packed;

“novel food” means any food which has not previously been used for human consumption in Great Britain, or has been so used only to a very limited extent.

(4) For the purposes of this section a food source is genetically modified if any of the genes or other genetic material in the food source—

- (a) has been modified by means of an artificial technique; or
- (b) is inherited or otherwise derived, through any number of replications, from genetic material which was so modified;

and in this subsection “artificial technique” does not include any technique which involves no more than, or no more than the assistance of, naturally occurring processes of reproduction (including selective breeding techniques or *in vitro* fertilisation).

#### Textual Amendments

- F7** Words in s. 18(1) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 8** (with s. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F8** Words in s. 18(2) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 12** (with s. 38, 40(2)); S.I. 2000/1066, **art. 2**

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

- C3** S. 18 transfer of functions (23.3.2005) by Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849), art. 1, **Sch.** (with art. 6)

## 19 Registration and licensing of food premises.

- (1) [<sup>F9</sup>the Secretary of State] may by regulations make provision—
- (a) for the registration by enforcement authorities of premises used or proposed to be used for the purposes of a food business, and for prohibiting the use for those purposes of any premises which are not registered in accordance with the regulations; or
  - (b) subject to subsection (2) below, for the issue by such authorities of licences in respect of the use of premises for the purposes of a food business, and for prohibiting the use for those purposes of any premises except in accordance with a licence issued under the regulations.
- (2) [<sup>F9</sup>the Secretary of State] shall exercise the power conferred by subsection (1)(b) above only where it appears to [<sup>F10</sup>him] to be necessary or expedient to do so—
- (a) for the purpose of securing that food complies with food safety requirements or in the interests of the public health; or
  - (b) for the purpose of protecting or promoting the interests of consumers.

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#### **Textual Amendments**

- F9** Words s. 19(1)(2) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 8** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F10** Words in s. 19(2) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 14** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**

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

- C4** S. 19: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
- C5** S. 19 transfer of functions (23.3.2005) by Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849), art. 1, **Sch.** (with art. 6)

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