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Food Safety Act 1990

1990 CHAPTER 16

PART III

ADMINISTRATION AND ENFORCEMENT

Offences

34 Time limit for prosecutions.

No prosecution for an offence under this Act which is punishable under section 35(2) below shall be begun after the expiry of—

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecutor,

whichever is the earlier.

Modifications etc. (not altering text)

- C1** S. 34 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(1.1.1993 for certain purposes and 15.1.1993 otherwise) by [S.I. 1992/3163, regs. 1, 18\(1\)](#) (which S.I. was revoked (29.4.1998) by [S.I. 1998/994, reg. 59\(1\), Sch. 5](#))
- S. 34 applied (with modifications) (1.1.1993 for certain purposes and 15.1.1993 otherwise) by [S.I. 1992/3164, regs. 1, 19\(1\)](#) (which S.I. was revoked (29.4.1998) by [S.I. 1998/994, reg. 59\(1\), Sch. 5](#))
- S. 34 applied (14.7.1993) by [S.I. 1993/1520, reg. 2\(5\)](#)
- S. 34 applied (with modifications) (15.9.1995) by [S.I. 1995/1763, reg. 7\(g\)](#)
- S. 34 applied (with modifications) (15.9.1995) by [S.I. 1995/2200, reg. 18](#)
- S. 34 applied (with modifications) (17.11.1997) by [S.I. 1997/2537, reg. 9](#)
- S. 34 applied (with modifications) (29.4.1998) by [S.I. 1998/994, reg. 55\(1\)\(f\)](#)

35 Punishment of offences.

- (1) A person guilty of an offence under section 33(1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.

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- (2) A person guilty of any other offence under this Act shall be liable—
- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;
 - (b) on summary conviction, to a fine not exceeding the relevant amount or to imprisonment for a term not exceeding six months or to both.
- (3) In subsection (2) above “the relevant amount” means—
- (a) in the case of an offence under section 7, 8 or 14 above, £20,000;
 - (b) in any other case, the statutory maximum.
- (4) If a person who is—
- (a) licensed under section 1 of the ^{M1}Slaughterhouses Act 1974 to keep a slaughterhouse or knacker’s yard;
 - (b) registered under section 4 of the ^{M2}Slaughter of Animals (Scotland) Act 1980 in respect of any premises for use as a slaughterhouse; or
 - (c) licensed under section 6 of that Act to use any premises as a knacker’s yard,
- is convicted of an offence under Part II of this Act, the court may, in addition to any other punishment, cancel his licence or registration.

Marginal Citations

M1 1974 c. 3.

M2 1980 c. 13.

36 Offences by bodies corporate.

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) any director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person who was purporting to act in any such capacity,
- he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In subsection (1) above “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Modifications etc. (not altering text)

C2 S. 36 applied by S.I. 1991/370, **reg. 3** (1)

S. 36 applied: (9.4.1992) by S.I. 1992/496, **reg. 7(1)(f)**; (29.5.1992) by S.I. 1992/1122, **reg. 4** (which S.I. was revoked (24.7.1992) by S.I. 1992/1601, **reg. 6**); (24.7.1992) by S.I. 1992/1601, **reg. 4**; (13.9.1992) by S.I. 1992/1971, **reg. 9(g)**; (14.9.1992) by S.I. 1992/1978, **reg. 7(g)**; (1.10.1992) by S.I. 1992/2037, **reg. 23(e)** (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. 36 applied: (14.7.1993) by S.I. 1993/1520, **reg. 2(2)(h)**; (29.7.1993) by S.I. 1993/1658, **reg. 7(g)**

S. 36 applied (W.) (1.4.2001) by S.I. 2001/1360, **reg. 7(1)(f)**

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- C3** S. 36 applied (with modifications) (5.11.1991) by S.I. 1991/2486, **reg. 7(1)**
- S. 36 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**); (18.12.1992 for certain purposes and 1.1.1993 otherwise) by S.I. 1992/3165, **regs. 1, 7(2)** (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. 36 applied (with modifications): (1.4.1994) by S.I. 1994/743, **reg. 8(1)(g)**; (1.5.1994) by S.I. 1994/1029, **reg. 25(e)** (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**; (1.1.1995) by S.I. 1994/3082, **reg. 21**
- S. 36 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)(g)**; (15.6.1995) by S.I. 1995/1372, **reg. 20(1)(g)**; (10.7.1995) by S.I. 1995/1544, **reg. 10**; (15.9.1995) by S.I. 1995/1763, **reg. 7(h)**; (15.9.1995) by S.I. 1995/2200, **reg. 18**; (20.9.1995) by S.I. 1995/2148, **reg. 17**
- S. 36 applied (with modifications): (1.1.1996) by S.I. 1995/3116, **reg. 8**; (1.1.1996) by S.I. 1995/3123, **reg. 9(h)** and S.I. 1995/3124, **reg. 11(h)**; (1.1.1996) by S.I. 1995/3240, **reg. 10(g)** (which S.I. was revoked (1.7.1996) by S.I. 1996/1499, **reg. 49, Sch. 9**); (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**; (29.3.1996) by S.I. 1996/961, **art. 4(a)**; (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**; (1.9.1996) by S.I. 1996/2097, **reg. 6**
- S. 36 applied (with modifications): (16.6.1997) by S.I. 1997/1335, **reg. 6(g)**; (30.6.1997) by S.I. 1995/1544, **reg. 10(1)** (as substituted (30.6.1997) by S.I. 1997/1414, **reg. 3**); (4.7.1997) by S.I. 1997/1499, **reg. 6(1)** (which S.I. was revoked (18.6.2002 (E.), 1.7.2002 (S.), 2.8.2002 (W.)) by S.I. 2002/890, **reg. 11, Sch.**; S.S.I. 2002/267, **reg. 11, Sch.**; S.I. 2002/1886, **reg. 11, Sch.**); (11.8.1997) by S.I. 1997/1729, **reg. 34(1)(h)**; (31.3.1999) by S.I. 1997/2042, **reg. 9** and S.I. 1997/2182, **reg. 9**; (17.11.1997) by S.I. 1997/2537, **reg. 9**; (16.12.1997) by S.I. 1997/2959, **reg. 11**; (1.1.1998) by S.I. 1997/2965, **reg. 30**
- S. 36 applied (with modifications): (19.2.1998) by S.I. 1998/141, **reg. 10(i)**; (1.4.1998) by S.I. 1998/616, **reg. 6(1)(f)**; (29.4.1998) by S.I. 1998/994, **reg. 55(1)(g)**; (31.10.1998) by S.I. 1998/2424, **reg. 8(h)**
- S. 36 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 inserted by S.I. 1999/747, **reg. 11**); (30.6.1999) by S.I. 1999/1540, **reg. 19(1)(i)**; (1.10.1999) by S.I. 1999/2457, **reg. 8(1)**
- S. 36 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(i)**; (W.) (1.11.2001) by S.I. 2000/1866, **reg. 7(i)**; (S.) (1.11.2001) by S.S.I. 2000/130, **reg. 7(i)**; (E.) (1.11.2001) by S.I. 2000/845, **reg. 7(i)**
- S. 36 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(i)**
- S. 36 applied (with modifications): (E.W.) (8.3.2002) by S.I. 2002/333, **reg. 6(i)**; (S.) (8.3.2002) by S.S.I. 2002/50, **reg. 6(i)**; (E.) (20.3.2002) by S.I. 2002/334, **art. 5(1)(e)** (as substituted (20.3.2002) by S.I. 2002/602, **art. 4**); (E.) (23.3.2002) by S.I. 2002/773, **reg. 5(1)(f)** (which S.I. was revoked (13.9.2002) by S.I. 2002/2351, **reg. 7**); (E.) (23.3.2002) by S.I. 2002/774, **reg. 5(1)(f)** (which S.I. was revoked (13.9.2002) by S.I. 2002/2350, **reg. 7**); (S.) (25.3.2002 at 1700 hours) by S.S.I. 2002/148, **regs. 1(1), 5(1)(f)** (which S.S.I. was revoked (13.9.2002) by S.S.I. 2002/424, **reg. 7**); (S.) (25.3.2002 at 1700 hours) by S.S.I. 2002/149, **regs. 1(1), 5(1)(f)** (which S.S.I. was revoked (13.9.2002) by S.S.I. 2002/425, **reg. 7**); (W.) (26.3.2002) by S.I. 2002/820, **reg. 5(1)(f)** (which S.I. was revoked (9.9.2002) by S.I. 2002/2295, **reg. 7**); (W.) (26.3.2002) by S.I. 2002/821, **reg. 5(1)(f)** (which S.I. was revoked (9.9.2002) by S.I. 2002/2296, **reg. 7**); (E.) (4.4.2002) by S.I. 2002/931, **reg. 5(1)(h)**; (S.) (4.4.2002) by S.S.I. 2002/179, **reg. 6(1)(g)**; (W.) (16.4.2002) by S.I. 2002/1090, **reg. 5(1)(h)**; (E.) (18.6.2002) by S.I. 2002/890, **reg. 7(1)(i)**; (E.) (20.6.2002) by S.I. 2002/1614, **reg. 5(1)(f)**; (S.) (24.6.2002) by S.S.I. 2002/300, **reg. 5(1)(e)**; (S.) (1.7.2002) by S.I. 2002/267, **reg. 7(1)(g)**; (W.) (12.7.2002)

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by S.I. 2002/1798, **reg. 5(1)(f)**; (W.) (2.8.2002) by S.I. 2002/1886, **reg. 7(1)(i)**; (E.) (5.8.2002 for certain purposes and otherwise 1.4.2004) by S.I. 2002/1817, **regs. 1(2)(3), 9(k)**; (W.) (9.9.2002) by S.I. 2002/2295, **reg. 5(1)(f)** and S.I. 2002/2296, **reg. 5(1)(f)**; (E.) (13.9.2002) by S.I. 2002/2350, **reg. 5(1)(f)** and S.I. 2002/2351, **reg. 5(1)(f)**; (S.) (13.9.2002) by S.S.I. 2002/424, **reg. 5(1)(d)** and S.S.I. 2002/425, **reg. 5(1)(d)**; (S.) (23.9.2002 for certain purposes and otherwise 1.4.2004) by S.S.I. 2002/397, **regs. 1(2)(3), 8(i)**; (W.) (31.12.2002 for certain purposes and otherwise 1.4.2004) by S.I. 2002/2939, **regs. 1(2)(3), 9(k)**; (S.) (1.1.2003) by S.S.I. 2002/523, **reg. 5(1)(i)**; (W.) (9.1.2003) by S.I. 2002/3157, **reg. 5(1)(k)**; (E.) (13.1.2003) by S.I. 2002/3169, **reg. 5(1)(k)**

C4 S. 36 extended (with modifications) (8.1.1992) by S.I. 1991/2843, **reg. 22(1)(d)**

VALID FROM 01/04/2000

[^{F1}36A Offences by Scottish partnerships.

Where an offence under this Act which has been committed by a Scottish partnership 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 deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.]

Textual Amendments

F1 S. 36A inserted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 16** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**

Modifications etc. (not altering text)

C5 S. 36A applied (with modifications) (S.) (17.3.2001) by S.S.I. 2001/38, **reg. 10**
S. 36A applied (with modifications): (S.) (8.3.2002) by S.S.I. 2002/50, **reg. 6(j)**; (S.) (25.3.2002 at 1700 hours) by S.S.I. 2002/148, **regs. 1(1), 5(1)(g)** (which S.S.I. was revoked (13.9.2002) by S.S.I. 2002/424, **reg. 7**); (S.) (25.3.2002 at 1700 hours) by S.S.I. 2002/149, **regs. 1(1), 5(1)(g)** (which S.S.I. was revoked (13.9.2002) by S.S.I. 2002/425, **reg. 7**); (S.) (4.4.2002) by S.S.I. 2002/179, **reg. 6(1)(h)**; (S.) (24.6.2002) by virtue of S.S.I. 2002/300, **reg. 5(1)(f)**; (S.) (1.7.2002) by S.S.I. 2002/267, **reg. 7(1)(h)**; (S.) (13.9.2002) by S.I. 2002/424, **reg. 5(1)(e)** and S.I. 2002/425, **reg. 5(1)(e)**; (S.) (23.9.2002 for certain purposes and otherwise 1.4.2004) by S.S.I. 2002/397, **regs. 1(2)(3), 8(j)**; (S.) (1.1.2003) by S.S.I. 2002/523, **reg. 5(1)(j)**

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