



# Food Standards Act 1999

## 1999 CHAPTER 28

### *Monitoring of enforcement action*

#### **12 Monitoring of enforcement action.**

- (1) The Agency has the function of monitoring the performance of enforcement authorities in enforcing relevant legislation.
- (2) That function includes, in particular, setting standards of performance (whether for enforcement authorities generally or for particular authorities) in relation to the enforcement of any relevant legislation.
- (3) Each annual report of the Agency shall contain a report on its activities during the year in enforcing any relevant legislation for which it is the enforcement authority and its performance in respect of—
  - (a) any standards under subsection (2) that apply to those activities; and
  - (b) any objectives relating to those activities that are specified in the statement of objectives and practices under section 22.
- (4) The Agency may make a report to any other enforcement authority on their performance in enforcing any relevant legislation; and such a report may include guidance as to action which the Agency considers would improve that performance.
- (5) The Agency may direct an authority to which such a report has been made—
  - (a) to arrange for the publication in such manner as may be specified in the direction of, or of specified information relating to, the report; and
  - (b) within such period as may be so specified to notify the Agency of what action they have taken or propose to take in response to the report.

#### **13 Power to request information relating to enforcement action.**

- (1) For the purpose of carrying out its function under section 12 in relation to any enforcement authority the Agency may require a person mentioned in subsection (2)—
  - (a) to provide the Agency with any information which it has reasonable cause to believe that person is able to give, or

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- (b) to make available to the Agency for inspection any records which it has reasonable cause to believe are held by that person or otherwise within his control (and, if they are kept in computerised form, to make them available in a legible form).
- (2) A requirement under subsection (1) may be imposed on—
  - (a) the enforcement authority or any member, officer or employee of the authority, or
  - (b) a person subject to any duty under relevant legislation (being a duty enforceable by an enforcement authority) or any officer or employee of such a person.
- (3) The Agency may copy any records made available to it in pursuance of a requirement under subsection (1)(b).

#### **14 Power of entry for persons monitoring enforcement action.**

- (1) The Agency may authorise any individual (whether a member of its staff or otherwise) to exercise the powers specified in subsection (4) for the purpose of carrying out its function under section 12 in relation to any enforcement authority.
- (2) No authorisation under this section shall be issued except in pursuance of a decision taken by the Agency itself or by a committee, sub-committee or member of the Agency acting on behalf of the Agency.
- (3) An authorisation under this section shall be in writing and may be given subject to any limitations or conditions specified in the authorisation (including conditions relating to hygiene precautions to be taken while exercising powers in pursuance of the authorisation).
- (4) An authorised person may—
  - (a) enter any premises mentioned in subsection (5) at any reasonable hour in order to inspect the premises or anything which may be found on them;
  - (b) take samples of any articles or substances found on such premises;
  - (c) inspect and copy any records found on such premises (and, if they are kept in computerised form, require them to be made available in a legible form);
  - (d) require any person present on such premises to provide him with such facilities, such records or information and such other assistance as he may reasonably request.
- (5) The premises which may be entered by an authorised person are—
  - (a) any premises occupied by the enforcement authority;
  - (b) any laboratory or similar premises at which work related to the enforcement of any relevant legislation has been carried out for the enforcement authority; and
  - (c) any other premises (not being a private dwelling-house) which the authorised person has reasonable cause to believe are premises in respect of which the enforcement powers of the enforcement authority are (or have been) exercisable.
- (6) The power to enter premises conferred on an authorised person includes power to take with him any other person he may consider appropriate.
- (7) An authorised person shall on request—

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- (a) produce his authorisation before exercising any powers under subsection (4); and
  - (b) provide a document identifying any sample taken, or documents copied, under those powers.
- (8) If a person who enters any premises by virtue of this section discloses to any person any information obtained on the premises with regard to any trade secret he is, unless the disclosure is made in the performance of his duty, guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) Where—
- (a) the enforcement authority in relation to any provisions of the <sup>M1</sup>Food Safety Act 1990 (in this Act referred to as “the 1990 Act”) or orders or regulations made under it is (by virtue of section 6(3) or (4) of that Act) a Minister of the Crown, the National Assembly for Wales, the Scottish Ministers or the Agency, or
  - (b) the enforcement authority in relation to any provisions of the <sup>M2</sup>Food Safety (Northern Ireland) Order 1991 (in this Act referred to as “the 1991 Order”) or orders or regulations made under it is (by virtue of Article 26(1A), (1B), (2), (3) or (3A) of that Order) a Northern Ireland Department or the Agency,
- this section applies to that authority (in relation to its performance in enforcing those provisions) with the omission of subsection (5)(a).
- (10) In this section “authorised person” means a person authorised under this section.

#### Marginal Citations

**M1** 1990 c. 16.

**M2** S.I. 1991/762(N.I. 7).

## 15 Meaning of “enforcement authority” and related expressions.

- (1) In sections 12 to 14 “relevant legislation” means—
- (a) the provisions of the 1990 Act and regulations or orders made under it;
  - (b) the provisions of the 1991 Order and regulations or orders made under it; and
  - (c) the provisions of Part IV of the <sup>M3</sup>Agriculture Act 1970 and regulations made under that Part of that Act, so far as relating to matters connected with animal feedingstuffs.
- (2) In those sections “enforcement authority” means—
- (a) in the case of provisions of the 1990 Act or regulations or orders made under it, the authority by whom they are to be enforced (including a Minister of the Crown, the National Assembly for Wales, the Scottish Ministers or the Agency itself if, by virtue of section 6(3) or (4) of the 1990 Act, that authority is the enforcement authority in relation to those provisions);
  - (b) in the case of provisions of the 1991 Order and regulations or orders made under it, the authority by whom they are to be enforced (including a Northern Ireland Department or the Agency itself if, by virtue of the Order, it is the enforcement authority in relation to those provisions); and
  - (c) in the case of provisions of Part IV of the <sup>M4</sup>Agriculture Act 1970 (or regulations made under it), an authority mentioned in section 67 of that Act;

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and “enforcement”, in relation to relevant legislation, includes the execution of any provisions of that legislation.

- (3) Any reference in those sections (however expressed) to the performance of an enforcement authority in enforcing any relevant legislation includes a reference to the capacity of that authority to enforce it.

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

- C1** S. 15(1) amended (E.W.) (1.4.2000) by S.I. 2000/656, **reg. 11**  
S. 15(1) amended (N.I.) (1.4.2000) by S.R. 2000/78, **art. 11**  
S. 15(1) amended (S.) (1.4.2000) by S.S.I. 2000/62, **reg. 11**
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**Marginal Citations**

- M3** 1970 c. 40.  
**M4** 1970 c. 40.

**16 Offences relating to sections 13 and 14.**

- (1) A person who—
- (a) intentionally obstructs a person exercising powers under section 14(4)(a), (b) or (c);
  - (b) fails without reasonable excuse to comply with any requirement imposed under section 13(1) or section 14(4)(d); or
  - (c) in purported compliance with such a requirement furnishes information which he knows to be false or misleading in any material particular or recklessly furnishes information which is false or misleading in any material particular;
- is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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