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STATUTORY INSTRUMENTS

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**1982 No. 1727**

**FOOD**

**The Food (Revision of Penalties) Regulations 1982**

|                               |         |                           |
|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>1st December 1982</i>  |
| <i>Laid before Parliament</i> |         | <i>10th December 1982</i> |
| <i>Coming into Operation</i>  |         | <i>1st January 1983</i>   |

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Social Services and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred by sections 4, 7, 13 and 123 of the Food and Drugs Act 1955(1), and now vested in them, and of all other powers enabling them in that behalf;

the Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Economic Community, acting jointly, in exercise of the powers conferred on them by the said section 2(2), and of all other powers enabling them in that behalf; and

the Secretary of State for the Home Department, the Secretary of State for Social Services and the Minister of Agriculture, Fisheries and Food, acting jointly, in exercise of the powers conferred by sections 4, 13 and 123 of the said Act of 1955 as applied to Northern Ireland by section 134 of that Act, and now vested in them, and of all other powers enabling them in that behalf

hereby make the following regulations, after consultation in accordance with section 123(6) of the said Act of 1955 with such organisations as appear to them to be representative of interests substantially affected by the regulations (in so far as the regulations are made in exercise of the powers conferred by the said sections 4, 7 and 13 or by the said sections 4 and 13 as applied to Northern Ireland by the said section 134) and after reference under section 82(4) of the said Act of 1955 to the Food Hygiene Advisory Council (in so far as the regulations are made in exercise of the powers conferred by the said sections 7 and 13 or by the said section 13 as applied to Northern Ireland by the said section 134):—

**Title and commencement**

**1.** These regulations may be cited as the Food (Revision of Penalties) Regulations 1982 and shall come into operation on 1st January 1983.

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(1) Section 4 was amended by section 4(1) of, and paragraph 3(1) of Schedule 4 to, the European Communities Act 1972 (c. 68); section 123 was amended by section 4 of the Food and Drugs (Amendment) Act 1982 (c. 26).

### Summary offences

2. The regulations specified in columns 1 and 2 of Schedule 1 to these regulations are hereby amended—

- (a) by deleting everything following the word “liable” from the provision of the regulations specified in column 3 of the said Schedule 1 and substituting for the part of that provision so deleted the words “on summary conviction to a fine not exceeding £1,000”; and
- (b) by deleting from the regulations the provision thereof, if any, specified in column 4 of the said Schedule 1.

### Offences triable either way

3. The regulations specified in columns 1 and 2 of Schedule 2 to these regulations are hereby amended—

- (a) by deleting the word “liable” and everything following it from the provision of the regulations specified in column 3 of the said Schedule 2 and substituting for the part of that provision so deleted the following words:—

“liable—

- (a) on summary conviction, to a fine not exceeding £1,000; and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both”

; and

- (b) by deleting from the regulations the provision thereof, if any, specified in column 4 of the said Schedule 2.

### Offences under pre-1956 regulations and orders

4.—(1) The Public Health (Imported Milk) Regulations 1926 are hereby amended—

- (a) by inserting as regulation 8 the regulation set out in Part I of Schedule 3 to these regulations, and
- (b) by inserting as regulation 9 the regulation set out in Part II of the said Schedule 3.

(2) The Public Health (Shell-Fish) Regulations 1934 (2) are hereby amended—

- (a) by inserting as regulation 12(2) the paragraph set out in Part III of the said Schedule 3, the present regulation 12 being consequently renumbered 12(1), and
- (b) by inserting as regulation 14 the regulation set out in Part II of the said Schedule 3.

(3) The Food Standards (General Provisions) Order 1944(3) is hereby amended—

- (a) by inserting as article 2A the article set out in Part IV of the said Schedule 3, there being inserted in place of “X” in that article the figure “1”;
- (b) by substituting for article 5 the article set out in Part V of the said Schedule 3; and
- (c) by deleting article 8.

(4) The Offals in Meat Products Order 1953 is hereby amended—

- (a) by inserting as article 4A the article set out in Part IV of the said Schedule 3, there being inserted in place of “X” in that article the figure “3”; and
- (b) by inserting as article 6A the article set out in Part V of the said Schedule 3.

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(2) To which there is an amendment not relevant to these regulations.

(3) Amended by S.R. & O. 1944/654.

### Offences committed before 1st January 1983

5. Nothing in these regulations shall affect the mode of trial or the punishment for an offence committed before 1st January 1983.

In Witness where of the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 22nd November 1982.

L.S.

*Peter Walker*  
Minister of Agriculture, Fisheries and Food

29th November 1982

*Norman Fowler*  
Secretary of State for Social Services

24th November 1982

*Nicholas Edwards*  
Secretary of State for Wales

1st December 1982

*William Whitelaw*  
Secretary of State for the Home Department

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## SCHEDULE 1

Regulation 2

## REGULATIONS WHOSE OFFENCES ARE TO CONTINUE TO BE SUMMARY OFFENCES

| <i>Column 1</i><br><i>S.I.No.(4)</i> | <i>Column 2</i><br><i>Title</i>                        | <i>Column 3</i><br><i>Provision amended</i> | <i>Column 4</i><br><i>Provision deleted</i> |
|--------------------------------------|--|---|---|
| 1959/831(5)                          | The Arsenic in Food Regulations 1959                   | Regulation 5(1)                             | Regulation 6(2)                             |
| 1959/2106(6)                         | The Fluorine in Food Regulations 1959                  | Regulation 5(1)                             | Regulation 7(2)                             |
| 1960/2331(7)                         | The Skimmed Milk with Non-Milk Fat Regulation 1960     | Regulation 7(1)                             | Regulation 9(2)                             |
| 1963/1435                            | The Bread and Flour Regulations 1963                   | Regulation 34(1)                            | Regulation 36(2)                            |
| 1964/19                              | The Meat (Treatment) Regulations 1964                  | Regulation 5(1)                             | Regulation 6(2)                             |
| 1964/760                             | The Soft Drinks Regulations 1964                       | Regulation 16(1)                            | Regulation 17(2)                            |
| 1966/1051                            | The Salad Cream Regulations 1966                       | Regulation 8(1)                             | Regulation 10(2)                            |
| 1966/1073                            | The Mineral Hydrocarbons in Food Regulations 1966      | Regulation 6                                | Regulation 8(2)                             |
| 1966/1074                            | The Butter Regulations 1966                            | Regulation 7(1)                             | Regulation 9(2)                             |
| 1967/860                             | The Meat Pie and Sausage Roll Regulations 1967         | Regulation 12(1)                            | Regulation 14(2)                            |
| 1967/861                             | The Canned Meat Product Regulations 1967               | Regulation 13(1)                            | Regulation 15(2)                            |
| 1967/862                             | The Sausage and Other Meat Product Regulations 1967    | Regulation 10(1)                            | Regulation 12(2)                            |
| 1967/1582                            | The Solvents in Food Regulations 1967                  | Regulation 8(1)                             | Regulation 10(2)                            |
| 1967/1866                            | The Ice-Cream Regulations 1967                         | Regulation 8(1)                             | Regulation 10(2)                            |
| 1967/1867                            | The Margarine Regulations 1967                         | Regulation 11(1)                            | Regulation 13(2)                            |
| 1968/430                             | The Fish and Meat Spreadable Products Regulations 1968 | Regulation 10(1)                            | Regulation 12(2)                            |
| 1969/1817                            | The Artificial Sweeteners in Food Regulations 1969     | Regulation 11(1)                            | Regulation 12(2)                            |
| 1970/94                              | The Cheese Regulations 1970                            | Regulation 16(1)                            | Regulation 18(2)                            |

(4) Most of these instruments have been amended, but the amendments are not relevant to these regulations, except where identified by a footnote.

(5) The relevant amending instrument is S.I. 1962/1287.

(6) The relevant amending instrument is S.I. 1962/1287.

(7) The relevant amending instrument is S.I. 1962/1287.

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| <i>Column 1</i><br><i>S.I.No.(4)</i> | <i>Column 2</i><br><i>Title</i>                          | <i>Column 3</i><br><i>Provision amended</i> | <i>Column 4</i><br><i>Provision deleted</i> |
|--------------------------------------|--|---|---|
| 1970/400                             | The Labelling of Food Regulations 1970                   | Regulation 30(1)                            | Regulation 32(2)                            |
| 1970/752                             | The Cream Regulations 1970                               | Regulation 12(1)                            | Regulation 14(2)                            |
| 1973/1340                            | The Colouring Matter in Food Regulations 1973            | Regulation 9(1)                             | Regulation 11(2)                            |
| 1976/509                             | The Specified Sugar Products Regulations 1976            | Regulation 10(1)                            | Regulation 12(2)                            |
| 1976/541                             | The Cocoa and Chocolate Products Regulations 1976        | Regulation 16(1)                            | Regulation 18(2)                            |
| 1976/1832                            | The Honey Regulations 1976                               | Regulation 10(1)                            | Regulation 12(2)                            |
| 1977/691                             | The Erucic Acid in Food Regulations 1977                 | Regulation 5(1)                             | Regulation 6(2)                             |
| 1977/927                             | The Fruit Juices and Fruit Nectars Regulations 1977      | Regulation 12(1)                            | Regulation 14(2)                            |
| 1977/928                             | The Condensed Milk and Dried Milk Regulations 1977       | Regulation 10(1)                            | Regulation 12(2)                            |
| 1978/105                             | The Antioxidants in Food Regulations 1978                | Regulation 8(1)                             | Regulation 10(2)                            |
| 1978/1420                            | The Coffee and Coffee Products Regulations 1978          | Regulation 10(1)                            | Regulation 12(2)                            |
| 1979/752                             | The Preservatives in Food Regulations 1979               | Regulation 9(1)                             | Regulation 11(2)                            |
| 1979/1254                            | The Lead in Food Regulations 1979                        | Regulation 6(1)                             | Regulation 8(2)                             |
| 1980/36                              | The Chloroform in Food Regulations 1980                  | Regulation 6(1)                             | Regulation 7(2)                             |
| 1980/1833                            | The Emulsifiers and Stabilisers in Food Regulations 1980 | Regulation 8(1)                             | Regulation 10(3)                            |
| 1980/1834                            | The Miscellaneous Additives in Food Regulations 1980     | Regulation 7(1)                             | Regulation 9(3)                             |
| 1980/1849                            | The Food Labelling Regulations 1980                      | Regulation 39                               | Regulation 42(3)                            |
| 1981/1063                            | The Jam and Similar Products Regulations 1981            | Regulation 16(1)                            | Regulation 18(3)                            |

(4)

Most of these instruments have been amended, but the amendments are not relevant to these regulations, except where identified by a footnote.

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## SCHEDULE 2

Regulation 3

## REGULATIONS WHOSE OFFENCES ARE TO BE TRIABLE EITHER WAY

| <i>Column 1</i><br><i>S.I. No. (8)</i> | <i>Column 2</i><br><i>Title</i>   | <i>Column 3</i><br><i>Provision amended</i> | <i>Column 4</i><br><i>Provision deleted</i> |
|--|---|---|---|
| 1959/734 (9)                           | The Ice-Cream (Heat Treatment, etc.) Regulations 1959                     | Regulation 7                                | Regulation 10(2)                            |
| 1960/1602                              | The Food Hygiene (Docks, Carriers, etc.) Regulations 1960                 | Regulation 25                               | —   |
| 1963/1229                              | The Meat Inspection Regulations 1963                                      | Regulation 16(1)                            | —   |
| 1963/1503                              | The Liquid Egg (Pasteurisation) Regulations 1963                          | Regulation 4(1)                             | Regulation 5(2)                             |
| 1966/791                               | The Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966 | Regulation 26                               | —   |
| 1967/385                               | The Food (Control of Irradiation) Regulations 1967                        | Regulation 6                                | Regulation 7(2)                             |
| 1968/97                                | The Imported Food Regulations 1968  | Regulation 17                               | Regulation 21(2)                            |
| 1968/98                                | The Imported Food (Northern Ireland) Regulations 1968                     | Regulation 16                               | —   |
| 1970/1172                              | The Food Hygiene (General) Regulations 1970                               | Regulation 30                               | —   |
| 1976/1209                              | The Poultry Meat (Hygiene) Regulations 1976                               | Regulation 29                               | —   |
| 1977/1805                              | The Slaughterhouses (Hygiene) Regulations 1977                            | Regulation 51(1)                            | —   |
| 1981/454                               | The Fresh Meat Export (Hygiene and Inspection) Regulations 1981           | Regulation 17(1)                            | —   |
| 1982/1018                              | The Meat (Sterilisation and Staining) Regulations 1982                    | Regulation 26(1)                            | —   |

(8) Most of these instruments have been amended, but the amendments are not relevant to these regulations, except where identified by a footnote.

(9) The relevant amending instrument is S.I. 1962/1287

## SCHEDULE 3

Regulation 4

### NEW PROVISIONS IN PRE-1956 REGULATIONS AND ORDERS

#### PART I

##### NEW REGULATION TO APPEAR IN THE PUBLIC HEALTH (IMPORTED MILK) REGULATIONS 1926

If any person contravenes or fails to comply with any of the foregoing provisions of these regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

#### PART II

##### NEW REGULATION TO APPEAR IN THE PUBLIC HEALTH (IMPORTED MILK) REGULATIONS 1926 AND THE PUBLIC HEALTH (SHELL-FISH) REGULATIONS 1934

(1) Subject to paragraph (2) of this regulation, the following provisions of the Food and Drugs Act 1955 shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under or taken or brought under that Act included references to proceedings, or a prosecution, as the case may be, taken or brought for an offence under these regulations:—

- (a) section 108(3) and (4) (which relates to prosecutions);
- (b) section 110(1), (2) and (3) (which relates to evidence of analysis);
- (c) section 112 (which relates to the power of a court to require analysis by the Government Chemist);
- (d) section 113 (which relates to a contravention due to some person other than the person charged);
- (e) section 115(2) (which relates to the conditions under which a warranty may be pleaded as a defence);
- (f) section 116 (which relates to offences in relation to warranties and certificates of analysis).

(2) The said section 112 shall apply for the purposes of these regulations as if the reference therein to the said section 108(4) included a reference to that subsection as applied by paragraph (1) of this regulation.

#### PART III

##### NEW PARAGRAPH TO APPEAR IN THE PUBLIC HEALTH (SHELL-FISH) REGULATIONS 1934

If any person contravenes paragraph (1) of this regulation he shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,000; and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

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## PART IV

### NEW ARTICLE TO APPEAR IN THE FOOD STANDARDS (GENERAL PROVISIONS) ORDER 1944 AND THE OFFALS IN MEAT PRODUCTS ORDER 1953

If any person contravenes article X of this Order he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

## PART V

### FURTHER NEW ARTICLE TO APPEAR IN THE FOOD STANDARDS (GENERAL PROVISIONS) ORDER 1944 AND THE OFFALS IN MEAT PRODUCTS ORDER 1953

(1) In so far as this Order applies to England and Wales, the following provisions of the Food and Drugs Act 1955 shall, subject to paragraph (2) of this article, apply for the purposes of this Order as if references therein to proceedings, or a prosecution, under or taken or brought under that Act included references to proceedings, or a prosecution, as the case may be, taken or brought for an infringement of this Order:—

- (a) section 108(3) and (4) (which relates to prosecutions);
- (b) section 112 (which relates to the power of the court to require analysis by the Government Chemist);
- (c) section 115(2) (which relates to the conditions under which a warranty may be pleaded as a defence);
- (d) section 116 (which relates to offences in relation to warranties and certificates of analysis).

(2) The said section 112 shall apply for the purposes of this Order as if the reference therein to the said section 108(4) included a reference to that subsection as applied by paragraph (1) of this article.

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## EXPLANATORY NOTE

These regulations amend a large number of regulations and orders relating to food so as to alter the penalties for offences against those regulations and orders. In many cases the mode of trial for prosecution of such offences is also altered. Apart from an amendment of one Northern Ireland instrument, the amendments extend to England and Wales only.

Offences against the regulations listed in Schedule 1 continue to be summary offences. The maximum fine for such offences is increased to £1,000 (regulation 2(a)).

Offences against the regulations listed in Schedule 2 become triable either way. The maximum fine on summary conviction of such offences is increased to £1,000. The maximum penalty on conviction on indictment is an unlimited fine or imprisonment for up to two years or both (regulation 3(a)).

Regulations and orders made before 1st January 1956 (the date of commencement of the Food and Drugs Act 1955) are treated separately (regulation 4). Offences against the Public Health (Shell-Fish) Regulations 1934 become triable either way and subject to the same maximum penalties as



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offences against the regulations listed in Schedule 2 to these regulations. Offences against the other pre-1956 instruments amended by these regulations continue to be summary offences and become subject to the same maximum fine as offences against the regulations listed in Schedule 1 to these regulations.

The Food and Drugs (Amendment) Act 1982 abolishes from 1st January 1983 imprisonment on summary conviction and daily fines for all offences against regulations and orders amended by these regulations, and words relating to those penalties are consequently now removed.

The opportunity is also taken to remove from regulations amended by these regulations provisions which, because of the Food and Drugs (Amendment) Act 1982, would otherwise cease to have effect on 1st January 1983 (regulations 2(b) and 3(b)).

All the amendments take effect on 1st January 1983.