
 STATUTORY INSTRUMENTS

1985 No. 1068 (S. 87)

FOOD

**The Food (Revision of Penalties and Mode of Trial)
(Scotland) Regulations 1985**

| | |
|-------------------------------|---------------------------|
| <i>Made - - - -</i> | <i>2nd July 1985</i> |
| <i>Laid before Parliament</i> | <i>25th July 1985</i> |
| <i>Coming into Operation</i> | <i>1st September 1985</i> |

In exercise of the powers conferred on me by sections 4, 7, 13 and 16(2) as read with sections 56(8)(e) and (8A) and 60(3) of the Food and Drugs (Scotland) Act 1956 (a) and section 2(2) of the European Communities Act 1972 (b) and of all other powers enabling me on that behalf and as a Minister designated for the purposes of the said section 2(2) of the last-mentioned Act in relation to (c) the common agricultural policy of the European Economic Community, in relation to (d) the presentation and packaging of food intended for sale for human consumption and in relation to (e) the labelling of milk intended for sale for human consumption and after consultation in accordance with section 56(6) of the said Act of 1956 with such organisations as appear to me to be representative of interests substantially affected by these regulations, I hereby make the following regulations:—

1. These regulations may be cited as the Food (Revision of Penalties and Mode of Trial) (Scotland) Regulations 1985 and shall come into operation on 1st September 1985.

2. In each of the instruments specified in columns 1 and 2 of Schedule 1 to these regulations, there shall be substituted for the regulation specified in column 3 of that Schedule, the following regulation:—

“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—

(a) on summary conviction to a fine not exceeding £2,000;

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.”.

3. In regulation 2(1) of each of the instruments specified in columns 1 and 2 of Schedule 2 to these regulations the words “statutory maximum” and the definition following thereon shall be deleted.

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- (a) 1956 c.30; section 4(1) was amended by paragraph 3(1) of Schedule 4 to the European Communities Act 1972 (c.68); section 16(2) was amended by paragraph 3(3) of Schedule 4 to the European Communities Act 1972; section 56(8) was amended by and section 56(8A) inserted by paragraph 8 of Schedule 15 to the Criminal Justice Act 1982 (c.48) and S.I. 1984/526.
- (b) 1972 c.68; section 2 is subject to Schedule 2 of that Act and is to be read in relation to offences triable summarily only with section 289(F) and 289(G) of the Criminal Procedure (Scotland) Act 1975 (c.21) (as inserted by section 54 of the Criminal Justice Act 1982) and S.I. 1984/526 and, in relation to offences triable either way, with section 289B(4) and (6) of the 1975 Act as inserted by paragraph 5 of Schedule 11 to the Criminal Law Act 1977 (c.45) and amended by section 55(2) of the 1982 Act and S.I. 1984/526.
- (c) S.I. 1972/1811. (d) S.I. 1981/833. (e) S.I. 1982/1675.

4. In each of the instruments specified in columns 1 and 2 of Schedule 3 to these regulations, the regulation specified in column 3 shall be deleted and the regulation specified in column 4 of Schedule 3 shall be substituted.

Transitional Provision

5. Nothing in these regulations shall affect the mode of trial or the punishment for an offence committed before the date on which these regulations come into operation.

George Younger,
One of Her Majesty's
Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
2nd July 1985.

| SCHEDULE 1 | | Regulation 2 |
|------------------------------|---|------------------------|
| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
| Year and S.I. number | Title | Regulation substituted |
| <i>Commodity regulations</i> | | |
| 1960/2437 | The Skimmed Milk with Non-Milk Fat (Scotland) Regulations 1960 (a) . | 7 |
| 1964/767 | The Soft Drinks (Scotland) Regulations 1964 (a) . | 17 |
| 1966/1206 | The Salad Cream (Scotland) Regulations 1966 (a) . | 9 |
| 1966/1252 | The Butter (Scotland) Regulations 1966 (a) . | 8 |
| 1970/108 | The Cheese (Scotland) Regulations 1970 (a) . | 17 |
| 1970/1191 | The Cream (Scotland) Regulations 1970 (a) . | 13 |
| 1970/1285 | The Ice Cream (Scotland) Regulations 1970 (a) . | 9 |
| 1970/1286 | The Margarine (Scotland) Regulations 1970 (a) . | 12 |
| 1976/914 | The Cocoa and Chocolate Products (Scotland) Regulations 1976 (a) . | 16 |
| 1976/946 | The Specified Sugar Products (Scotland) Regulations 1976 (a) . | 10 |
| 1976/1818 | The Honey (Scotland) Regulations 1976 (a) . | 10 |
| 1977/1026 | The Fruit Juices and Fruit Nectars (Scotland) Regulations 1977 (a) . | 12 |
| 1977/1027 | The Condensed Milk and Dried Milk (Scotland) Regulations 1977 (a) . | 10 |
| 1979/383 | The Coffee and Coffee Products (Scotland) Regulations 1979 (a) . | 10 |
| 1981/1320 | The Jam and Similar Products (Scotland) Regulations 1981 (a) . | 16 |
| 1984/1518 | The Bread and Flour (Scotland) Regulations 1984. | 11 |
| 1984/1714 | The Meat Products and Spreadable Fish Products (Scotland) Regulations 1984. | 15 |
| <i>Additives regulations</i> | | |
| 1964/44 | The Meat Treatment (Scotland) Regulations 1964 (a) . | 6 |
| 1966/1263 | The Mineral Hydrocarbons in Food (Scotland) Regulations 1966 (a) . | 7 |
| 1968/263 | The Solvents in Food (Scotland) Regulations 1968 (a) . | 9 |
| 1973/1310 | The Colouring Matter in Food (Scotland) Regulations 1973 (a) . | 10 |
| 1977/1028 | The Erucic Acid in Food (Scotland) Regulations 1977 (a) . | 6 |
| 1978/492 | The Antioxidants in Food (Scotland) Regulations 1978 (a) . | 8 |
| 1979/1073 | The Preservatives in Food (Scotland) Regulations 1979 (a) . | 9 |
| 1980/289 | The Chloroform in Food (Scotland) Regulations 1980 (a) . | 6 |

(a) to which there are amendments not relevant to these regulations.

| Regulation 2 | | SCHEDULE 1 |
|-------------------------------------|---|------------------------|
| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
| Year and S.I. number | Title | Regulation substituted |
| 1980/1888 | The Emulsifiers and Stabilisers in Food (Scotland) Regulations 1980 (a) . | 8 |
| 1980/1889 | The Miscellaneous Additives in Food (Scotland) Regulations 1980 (a) . | 7 |
| 1983/1497 | The Sweeteners in Food (Scotland) Regulations 1983. | 9 |
| <i>Contaminants regulations</i> | | |
| 1959/928 | The Arsenic in Food (Scotland) Regulations 1959 (a) . | 6 |
| 1979/1641 | The Lead in Food (Scotland) Regulations 1979 (a) . | 6 |
| <i>Milk and Dairies regulations</i> | | |
| 1967/81 | The Milk and Dairies (Channel Islands and South Devon Milk) (Scotland) Regulations 1967 (a) . | 7 |
| 1974/1356 | The Milk and Dairies (Semi-skimmed and Skimmed Milk) (Heat Treatment and Labelling) (Scotland) Regulations 1974 (a) . | 7 |
| 1983/1514 | The Milk-based Drinks (Scotland) Regulations 1983. | 10(1) |
| 1983/1515 | The Cream (Heat Treatment) (Scotland) Regulations 1983. | 7(1) |
| <i>Hygiene regulations</i> | | |
| 1961/243 | The Food (Meat Inspection) (Scotland) Regulations 1961 (a) . | 21 |
| 1981/1034 | The Fresh Meat Export (Hygiene and Inspection) (Scotland) Regulations 1981 (b) . | 18 |
| <i>Other Regulations</i> | | |
| 1948/960 | The Ice Cream (Scotland) Regulations 1948 (a) . | 14 |
| 1963/1591 | The Liquid Egg (Pasteurisation) (Scotland) Regulations 1963 (a) . | 5 |
| 1967/388 | The Food (Control of Irradiation) (Scotland) Regulations 1967 (a) . | 6 |

(a) to which there are amendments not relevant to these regulations.

(b) the relevant amending instrument is S.I. 1984/1885.

SCHEDULE 2

Regulation 3

| <i>Column 1</i> | <i>Column 2</i> |
|---------------------------------|---|
| Year and S.I. number | Title |
| <i>Commodity regulations</i> | |
| 1979/383 | The Coffee and Coffee Products (Scotland) Regulations 1979 (a) |
| 1981/1320 | The Jam and Similar Products (Scotland) Regulations 1981 (a) |
| <i>Additives regulations</i> | |
| 1979/1073 | The Preservatives in Food (Scotland) Regulations 1979 (a) |
| 1980/289 | The Chloroform in Food (Scotland) Regulations 1980 (a) |
| 1980/1888 | The Emulsifiers and Stabilisers in Food (Scotland) Regulations 1980 (a) |
| 1980/1889 | The Miscellaneous Additives in Food (Scotland) Regulations 1980 (a) |
| <i>Contaminants regulations</i> | |
| 1979/1641 | The Lead in Food (Scotland) Regulations 1979 (a) |
| <i>Labelling regulations</i> | |
| 1983/938 | The Milk Labelling (Scotland) Regulations 1983 (a) |

(a) to which there are amendments not relevant to these regulations.

SCHEDULE 3.

Regulation 4

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> | <i>Column 4</i> |
|----------------------------|--|-----------------|--|
| Year and S.I. number | Title | Regulation | Substitute regulation |
| <i>Hygiene Regulations</i> | | | |
| 1959/413 | The Food Hygiene (Scotland) Regulations 1959 (a). | 33 | “33. A person guilty of an offence against these regulations shall be liable— (a) on summary conviction to a fine not exceeding £2,000; (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.” |
| 1963/2001 | The Food (Preparation and Distribution of Meat) (Scotland) Regulations 1963 (a). | 71 | “71. A person guilty of an offence against these regulations shall be liable— (a) on summary conviction to a fine not exceeding £2,000; (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.” |
| 1976/1221 | The Poultry Meat (Hygiene) (Scotland) Regulations 1976 (a). | 29 | “29. A person guilty of an offence against these regulations shall be liable— (a) on summary conviction to a fine not exceeding £2,000; (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.” |

(a) to which there are amendments not relevant to these regulations.

Regulation 4

SCHEDULE 3

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> | <i>Column 4</i> |
|------------------------------|---|-----------------|--|
| Year and S.I. number | Title | Regulation | Substitute regulation |
| 1978/1273 | The Slaughterhouse Hygiene (Scotland) Regulations 1978 (a). | 60 | “60. A person guilty of an offence against these regulations shall be liable— (a) on summary conviction to a fine not exceeding £2,000; (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.” |
| 1983/704 | The Meat and Poultry Meat (Staining and Sterilisation) (Scotland) Regulations 1983. | 50 | “50. If any person contravenes, or fails to comply with any provision of these regulations, or knowingly or recklessly makes a false entry in any document required by these regulations, he shall be guilty of an offence and shall be liable— (a) on summary conviction to a fine not exceeding £2,000; (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.” |
| <i>Labelling regulations</i> | | | |
| 1983/938 | The Milk Labelling (Scotland) Regulations 1983. | 12(2) | “(2) Any person who is guilty of an offence against these regulations shall be liable— (a) on summary conviction to a fine not exceeding £2,000; (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.” |

(a) to which there are amendments not relevant to these regulations.

Regulation 4

SCHEDULE 3

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> | <i>Column 4</i> |
|----------------------|--|-----------------|---|
| Year and S.I. number | Title | Regulation | Substitute regulation |
| 1984/1519 | The Food Labelling (Scotland) Regulations 1984 (a) . | 40 | <p>“40. If any person—</p> <p>(a) sells any food the presentation of which contravenes regulation 4, or</p> <p>(b) sells any food which is not marked or labelled in accordance with the provisions of Part III of these regulations, or</p> <p>(c) sells or advertises for sale any food in respect of which a claim is made or a description is used in contravention of the provisions of Part IV of these regulations, or</p> <p>or</p> <p>(d) advertises for sale any food in contravention of regulation 23(3), or</p> <p>(e) sells any food from a vending machine in contravention of regulation 30,</p> <p>he shall be guilty of an offence and shall be liable—</p> <p>(i) on summary conviction to a fine not exceeding £2,000;</p> <p>(ii) on conviction on indictment to a fine or to imprisonment for a term not exceeding one year or both.”</p> |

(a) to which there are amendments not relevant to these regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These regulations apply to Scotland only. They alter the maximum penalties for offences against certain other regulations relating to food. In some cases the mode of trial for offences against certain food regulations is also altered to make the offences triable either summarily or on indictment.

2. The regulations take account of changes made to the Food and Drugs (Scotland) Act 1956 by the Criminal Justice Act 1982, which abolished daily fines for offences against the regulations concerned. The regulations also remove the possibility of imprisonment on summary conviction for these offences. The maximum fine on summary conviction against the regulations concerned is however raised to £2,000.

3. Regulation 2 provides in relation to the offences created by the regulations specified in column 3 of Schedule 1 the maximum fine and term of imprisonment which may be imposed.

4. Regulation 3 brings the penalty provisions of the regulations specified in Schedule 2 into line with the other penalty provisions.

5. Regulation 4 provides, in relation to the offences stipulated in regulations referred to in Schedule 3 for a maximum fine of £2,000 on summary conviction and imprisonment on conviction on indictment for not more than one year.

6. The regulations come into force on 1st September 1985 but in accordance with regulation 5 there is a provision that in the case of an offence committed before that date the mode of trial and maximum penalty under the previous regulations will continue to apply.

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