

STATUTORY RULES AND ORDERS

1943 No. 1553

**EMERGENCY POWERS (DEFENCE)**

**Sale of Food**

THE DEFENCE (SALE OF FOOD) REGULATIONS, 1943.

At the Court at Buckingham Palace, the 28th day of October, 1943.

PRESENT,

The King's Most Excellent Majesty in Council.

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that the following Regulations shall have effect:—

1.—(1) A person who gives with any food sold by him, or displays with any food exposed by him for sale, a label, whether attached to or printed on the wrapper or container or not, which falsely describes that food, or is otherwise calculated to mislead as to its nature, substance or quality or, in particular, as to its nutritional or dietary value, shall be guilty of an offence against this Regulation unless he proves that he did not know and could not with reasonable diligence have ascertained that the label was of such a character as aforesaid.

False  
labelling  
and  
advertise-  
ment of  
food.

(2) A person who publishes, or is a party to the publication of, an advertisement (not being such a label so given or displayed by him as aforesaid) which falsely describes any food or is otherwise calculated to mislead as to its nature, substance or quality or, in particular, as to its nutritional or dietary value, shall be guilty of an offence against this Regulation, unless he proves that he did not know and could not with reasonable diligence have ascertained that the advertisement was of such a character as aforesaid.

(3) In any proceedings for an offence against this Regulation, the fact that the label or advertisement includes an accurate statement of the composition of the food shall not preclude the court from holding that the label or advertisement is of such a character as aforesaid.

(4) In any proceedings for an offence against this Regulation in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business.

(5) In any such proceedings as are specified in paragraph (4) of this Regulation against the manufacturers, producers or importers of the advertised food, it shall rest on the defendant to prove that he did not publish, and was not a party to the publication of, the advertisement.

I & 2  
Geo. 6.  
c. 56.

(6) The provisions of the Food and Drugs Act, 1938, specified in Part I of the Schedule to these Regulations, which relate to the matters specified in the said Part I, shall have effect for the purposes of this Regulation as if references therein to that Act, or to any Part thereof, were references to this Regulation.

(7) Where in any proceedings for a contravention of paragraph (1) or (2) of this Regulation the defendant, in pursuance of section eighty-four of the Food and Drugs Act, 1938, as applied by paragraph (6) of this Regulation, relies on a warranty in writing given to him by the person from whom he purchased any food, then if the warranty was false the person giving the warranty shall be guilty of an offence against this Regulation unless he proves that when he gave the warranty he had reasonable cause to believe that the statements or description contained therein were accurate.

(8) Section six of the Food and Drugs Act, 1938, shall, so far as it relates to food (as defined in these Regulations), not have effect during the continuance in force of this Regulation, but without prejudice to proceedings in respect of any contravention of the said section before this Regulation comes into operation.

(9) This Regulation shall come into operation on the first day of January, nineteen hundred and forty-four.

Require-  
ments as to  
pre-pack-  
ing and ad-  
vertisement,  
and com-  
position of  
food.

2.—(1) The Minister of Food, if it appears to him expedient so to do for the efficient prosecution of the war or the maintenance of supplies or services essential to the life of the community, may by order provide—

- (a) for imposing requirements as to the labelling or marking of wrappers or containers enclosing or containing food of various kinds, and for restricting the making in advertisements of food or claims or suggestions of the presence in the food of vitamins or minerals;
- (b) for prohibiting or restricting the addition of any substance to, and regulating generally the composition of, any food.

(2) An order under this Regulation may apply, with or without modifications, the provisions of any of the enactments specified in Part II of the Schedule to these Regulations.

Entry and  
inspection,  
and taking  
of samples.

3.—(1) Any person empowered under the hand of the Minister of Food to act under this Regulation may, for the purpose of securing the enforcement of these Regulations or any order made thereunder, issue a warrant in writing to any officer named in the warrant authorising him to enter and carry out an inspection of any undertaking of the class or description specified therein; and any officer so authorised may, on production of the warrant issued to him, enter and inspect any premises used or appropriated for the purposes of any undertaking to which the warrant relates and any articles found in the premises, and may take any such sample and carry out any such test as appears to him to be necessary for the enforcement of these Regulations or any order made thereunder.

(2) The powers of entry, inspection, sampling and testing conferred by paragraph (1) of this Regulation shall also be exercisable—

- (a) by any sampling officer within the meaning of section sixty-eight of the Food and Drugs Act, 1938, on production of some duly authenticated document showing his authority under that Act;

(b) for the purpose of securing the enforcement of any provision of an order under Regulation two of these Regulations relating to weight, measure or number, by an inspector of weights and measures appointed by a local authority for the purposes of the Weights and Measures Acts 1878 to 1936, on production of some duly authenticated document showing his authority under those Acts,

in relation to any premises in the area for which the officer or inspector is appointed to act, being premises used or appropriated for the purpose of any undertaking by way of trade or business concerned in the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of food.

(3) Where any article held ready for retail sale is taken as a sample under this Regulation, or the wrapper or container of any article pre-packed for retail sale is broken open for the purposes of any test carried out under this Regulation and cannot be resealed without injury to the contents, the officer or inspector concerned shall, if required to do so by the retailer, purchase the article.

(4) Where any officer or inspector by whom a sample is taken under this Regulation considers that it should be analysed, he shall submit it to be analysed, if a sampling officer, to a public analyst, and in any other case to a public analyst or the Government Chemist.

Section seventy of the Food and Drugs Act, 1938 (which relates to the division of, and dealing with, samples purchased or taken under that Act), shall apply to samples submitted under this paragraph as if the references in that section to the public analyst included references to the Government Chemist, and subsection (4) of section eighty and section eighty-two of the said Act (which provide for the production at the hearing of proceedings under that Act of part of a sample and for empowering the court to cause an analysis thereof to be made) shall apply, with the necessary modifications, to samples submitted under this paragraph to a public analyst.

4. Part V of the Defence (General) Regulations, 1939, shall apply for the purposes of these Regulations, as if in the said Part V any reference to those Regulations included a reference to these Regulations:

Provided that an offence against any of these Regulations shall only be prosecuted summarily, and accordingly the provisions of the said Part V relating to proceedings on indictment shall not apply.

5.—(1) In addition to the authorities by whom proceedings for offences against any of these Regulations may be instituted by virtue of the provisions of Part V of the Defence (General) Regulations, 1939, as applied by Regulation four of these Regulations, the following authorities may institute such proceedings in England and Northern Ireland:—

- (a) the Minister of Food;
- (b) as respects proceedings in the area of a Food and Drugs authority as defined by section sixty-four of the Food and Drugs Act, 1938, that authority;
- (c) in so far as an order under Regulation two of these Regulations so provides, as respects an infringement of the order in the area of a local authority for the purposes of the Weights and Measures Acts, 1878 to 1936, that authority:

Application of Part V of the Defence (General) Regulations, 1939.

Enforcing authorities.

Provided that, except in such cases as the Minister of Food may by order provide, proceedings shall not be brought by any such Food and Drugs authority as aforesaid without the consent of the Minister.

(2) The expenses of any such Food and Drugs authority and of a local authority for the purposes of the Weights and Measures Acts, 1878 to 1936, in enforcing these Regulations shall be defrayed in like manner as their expenses in enforcing the Food and Drugs Act, 1938, and the said Weights and Measures Acts, 1878 to 1936, respectively.

Interpretation.

6. In these Regulations, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“advertisement” includes any notice, circular, label, wrapper or other document, and any public announcement made orally or by any means of producing or transmitting light or sound;

“food” means any article used as food or drink for human consumption and includes any substance which is intended for use in the composition or preparation of food, any flavouring or condiment, and any colouring matter intended for use in food, and an article shall not be deemed not to be food by reason only that it is also capable of being used as a medicine;

“public analyst” has the same meaning as in the Food and Drugs Act, 1938.

Application to Scotland.

7.—(1) The following provisions of this Regulation shall have effect for the application of these Regulations to Scotland.

18 & 19  
Geo. 5.  
c. 31.

(2) For the reference in Regulation six to the Food and Drugs Act, 1938, there shall be substituted a reference to the Food and Drugs (Adulteration) Act, 1928, references to section eighty-four of the first mentioned Act shall have effect as if that section extended to Scotland, and for a reference to any provision of the first mentioned Act appearing in the first column of the Table annexed hereto there shall be substituted a reference to the provision of the Act second above mentioned appearing opposite the first mentioned provision in the second column of the said Table.

TABLE.

The Act of 1938 Section 6.	The Act of 1928 Section 30 (1) (so far as relating to the giving of a label with an article of food.)
68	16
70	18
80 (4)	28 (4)
81 (1)	28 (3)
81 (3)	28 (2)
82	31

(3) Where an offence against Regulation one has been committed in respect of which proceedings might be taken under these Regulations against some person and the offence was due to an act or default of some other person, then, whether proceedings are or are not taken against the first mentioned person, that other person may be charged with and convicted of the offence, and shall be liable on conviction to the like punishment as might have been inflicted on the first mentioned person if he had been convicted of the offence.

(4) Any expense incurred under these Regulations by a local authority for the purposes of the Food and Drugs (Adulteration) Act, 1928, shall be defrayed in like manner as expenses incurred under that Act.

(5) The Schedule shall have effect as if the reference in Part I to section eighty-three of the Food and Drugs Act, 1938, were omitted and as if there were included in Part II a reference to paragraph (3) of this Regulation.

8.—(1) The following provisions of this Regulation shall have effect for the application of these Regulations to Northern Ireland.

Application  
to Northern  
Ireland.

(2) For the references to section six, section seventy, subsection (4) of section eighty and section eighty-two of the Food and Drugs Act, 1938, there shall be respectively substituted references to the corresponding provisions contained in sections twenty-seven, fourteen, twenty-one and twenty-two of the Sale of Food and Drugs Act, 1875, section twenty-one of the Sale of Food and Drugs Act, 1899, and section two of the Administrative Provisions Act (Northern Ireland), 1928.

38 & 39  
Vict. c. 63.  
62 & 63  
Vict. c. 51.

(3) Paragraph (6) of Regulation one and paragraph (2) of Regulation two shall have effect as if the enactments specified in the Schedule to these Regulations extended to Northern Ireland.

(4) In Regulation three—

(a) for the reference in paragraph (2) to a sampling officer there shall be substituted a reference to an officer, inspector or constable appointed for the purposes of section thirteen of the Sale of Food and Drugs Act, 1875, and for the reference in the said paragraph to an inspector of weights and measures appointed by a local authority there shall be substituted a reference to an inspector of weights and measures appointed under section two of the Weights and Measures Act (Northern Ireland), 1938;

(b) for the references in paragraph (4) to the Government Chemist there shall be substituted references to the Government Chemist for Northern Ireland.

(5) For sub-paragraphs (b) and (c) of paragraph (1) of Regulation five there shall be substituted the following sub-paragraphs:—

“(b) as respects proceedings in the area of a local authority entrusted with the execution of the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939, that authority;

(c) in so far as an order under Regulation two of these Regulations so provides, as respects an infringement of the order the Ministry of Commerce;”

and references in the proviso to the said paragraph (1) to a Food and Drugs authority shall be construed accordingly.

(6) For paragraph (2) of Regulation five there shall be substituted the following paragraph:—

“(2) The expenses of a local authority entrusted with the execution of the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939, in enforcing these Regulations shall be defrayed in like manner as their expenses in executing the provisions of the said Acts.”

(7) The expression “public analyst” means a public analyst appointed under the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939.

9. These Regulations may be cited as the Defence (Sale of Food) Regulations, 1943.

Short title.

*E. C. E. Leadbitter.*

## SCHEDULE.

Reg. 1(6), 2(2).

## PART I.

*Provisions of 1 & 2 Geo. 6. c. 56 applicable for purposes of Regulation one.*

Section eighty-one, subsections (1) and (3) (proof of facts stated in certificate of public analyst); section eighty-three (defence available to defendant where some other person is responsible for the commission of the offence charged, and punishment of that other person); section eighty-four (pleading of written warranty as a defence).

## PART II.

*Enactments applicable for purposes of Regulation two.*

The enactments specified in Part I of this Schedule; subsection (1) of section twelve of the Sale of Food (Weights and Measures) Act, 1926 (inconsiderable variation of single articles to be disregarded); paragraphs (5) and (7) of Regulation one of these Regulations.

16 & 17 Geo. 5.  
c. 63.

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