ELIZABETH II

Food and Drugs (Amendment) Act 1982

1982 CHAPTER 26

An Act to amend the Food and Drugs Act 1955 by altering certain penalties; by enabling offences to be tried on indictment as well as summarily; by extending in certain circumstances the time limits for prosecution; and for purposes connected therewith. [13th July 1982]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Trial of and penalties for offences under principal Act

1. The following section shall be substituted for section 106 of the Food and Drugs Act 1955 (in this Act referred to as " the principal Act ")— Offences made triable either way. 1955 c. 16. (4 & 5 Eliz. 2)

" Offences triable either way.

106.—(1) A person guilty of an offence to which this section applies shall be liable—

(*a*) on summary conviction, to a fine not exceeding the statutory maximum ; and

(*b*) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

(2) This section applies to any offence under this Act except—

(*a*) an offence under section 5(3) of this Act; and

(*b*) an offence under any provision of this Act specified in section 106A(3) of this Act.".

Offences triable summarily.

2. The following section shall be inserted after section 106 of the principal Act—

"Summary offences.

106A.—(1) Any offence to which this section applies shall be triable summarily.

(2) The offences to which this section applies are—

(*a*) an offence under any provision of this Act specified in subsection (3) of this section;

(*b*) an offence under regulations made under this Act other than an offence which by virtue of the regulations is triable either on indictment or summarily;

(*c*) an offence under byelaws made under this Act; and

(*d*) an offence under an order made under section 5 of this Act.

(3) The provisions of this Act mentioned in subsection (2)(*a*) of this section are—

(*a*) section 18(4);

(*b*) section 22(1);

(*c*) section 23(1);

(*d*) section 23(3);

(*e*) section 27(1);

(*f*) section 52(4);

(*g*) section 55(1);

(*h*) section 57(1);

(*j*) section 100(5);

(*k*) section 105(1);

(*l*) section 105(3).".

Time limits

Time limits for prosecutions.

3. The following subsections shall be substituted for section 108(1) of the principal Act—

"(1) No prosecution for an offence under this Act or regulations under it which is triable either on indictment or summarily shall be begun after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.

(1A) Where a sample has been procured under this Act, no prosecution in respect of the article or substance sampled shall be begun after the expiration of the following period, beginning with the date on which the sample was procured, that is to say—

(i) in the case of a sample of milk, twenty-eight days,

(ii) in any other case, two months,

unless the justice of the peace before whom the information is laid, on being satisfied on oath that having regard to the circumstances of the particular case it was not practicable to lay the information at an earlier date, gives a certificate to that effect; and, if the prosecution is in respect of a sample of milk, it shall not in any case be begun after the expiration of forty-two days beginning with the said date.".

Trial of and penalties for offences under regulations

Powers to provide in regulations for mode of trial and penalties.

4.—(1) The following paragraphs shall be substituted for paragraph (*e*) of section 123(1) of the principal Act (which specifies certain provisions that may be included in regulations under Part I of the Act, Milk and Dairies Regulations and Milk (Special Designation) Regulations)—

" (*e*) provide that an offence under the regulations shall be triable either on indictment or summarily;

(*ea*) include provisions under which a person guilty of an offence under the regulations which is so triable is liable on summary conviction to a fine not exceeding the statutory maximum or such smaller amount as may be specified in the regulations and on conviction on indictment to either or both of the following—

(i) a fine not exceeding an amount specified in the regulations or of an indefinite amount;

(ii) imprisonment for a term not exceeding two years or such shorter term as may be specified in the regulations;

(*eb*) include provisions under which a person guilty of an offence under the regulations which is triable only summarily is liable on conviction to a fine not exceeding £1,000 or such smaller amount as may be specified in the regulations.".

(2) In section 123(2) of the principal Act (which applies subsection (1) of that section to orders requiring particulars of food ingredients) after the word " section ", in the first place where it occurs, there shall be inserted the words ", other than paragraphs (*e*) and (*ea*),".

Obstruction of execution of principal Act

Abolition of imprisonment for obstruction.

5. In the proviso to section 105(1) of the principal Act (by virtue of which, if a court is satisfied that a person guilty of an offence of obstruction under that subsection committed it with intent to prevent the discovery of some other offence under the Act, or has within the twelve months last preceding been convicted of an offence under the subsection, he may be sentenced to imprisonment for a term not exceeding one month) the words " or to imprisonment for a term not exceeding one month " shall cease to have effect.

Supplementary provisions relating to subordinate legislation

Abolition of certain penalties.

6. There shall be omitted from any regulations under the principal Act any provision under which a person guilty of an offence created by them is liable—

(*a*) to imprisonment on summary conviction ; or

(*b*) to a further fine for each day during which the offence continues after conviction.

Pre-1956 subordinate legislation.

7. In Schedule 12 to the principal Act—

(*a*) paragraph 1(2) ; and

(*b*) in paragraph 2(3), the words from " (subject " to " effect ", in the second place where it occurs,

(the effect of which is that certain offences against subordinate legislation made before the commencement of the Act are treated as offences under the Act) are hereby repealed.

Northern Ireland

Application to Northern Ireland.

8.—(1) Paragraph 1(*b*) of Schedule 10 to the principal Act shall have effect as if the enactments listed in it included section 106A.

(2) In the Table in paragraph 2 of that Schedule the fourth paragraph of the entry relating to section 123(1) is hereby repealed.

Supplementary

Meaning of " statutory maximum ".

9. The following definition shall be inserted in section 135(1) of the principal Act after the definition of " slaughterhouse "—

" statutory maximum " means the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (£1,000 or another sum fixed by order under section 143 of that Act to take account of changes in the value of money) ; ".

1980 c. 43.

Offences committed before commencement.

10. Nothing in this Act—

(*a*) shall render a person liable to be prosecuted for an offence which was committed before 1st January 1983 after the end of the period during which he could have been prosecuted for the offence if this Act had not been passed ; or

(*b*) shall affect the mode of trial or the punishment for an offence committed before 1st January 1983.

Extent.

11.—(1) The following sections of this Act extend to England and Wales only—

section 1 ;
section 5 ; and
section 7.

(2) Section 8 above extends to Northern Ireland only.

(3) Subject to subsections (1) and (2) above, this Act extends to England and Wales and Northern Ireland.

Commencement.

12.—(1) Sections 4 and 9 above shall come into force on 1st November 1982.

(2) Subject to subsection (1) above, this Act shall come into force on 1st January 1983.

Citation. 1976 c. 37. 1981 c. 26.

13. This Act may be cited as the Food and Drugs (Amendment) Act 1982, and the principal Act, the Food and Drugs (Control of Food Premises) Act 1976, the Food and Drugs (Amendment) Act 1981 and this Act may be cited together as the Food and Drugs Acts 1955 to 1982.