

Foodstuffs (Dangerous Imitations) Act, 1992

Principal Act

Act. No. 1992-15

Commencement

24.12.1992

Assent

24.12.1992

Transposing:

Directive 87/357/EEC

ARRANGEMENT OF SECTIONS

Section

1. Title.
2. Definitions.
3. Importation and exportation.
4. Manufacture of dangerous imitation.
5. Marketing and selling of a dangerous imitation.
6. Offences by corporations.
7. Penalties.

AN ACT TO MAKE PROVISION IN RESPECT OF PRODUCTS WHICH, APPEARING TO BE OTHER THAN THEY ARE, MAY ENDANGER HEALTH AND SAFETY AND THEREBY TO TRANSPOSE INTO THE NATIONAL LAW OF GIBRALTAR, COUNCIL DIRECTIVE 87/357.

Title.

1. This Act may be cited as the Foodstuffs (Dangerous Imitations) Act, 1992.

Definitions.

2. In this Act, “dangerous imitation” means a product which—

- (a) appearing to be other than it is, may endanger the health or safety of any person by whom it is consumed; and
- (b) although not foodstuff, possess a form odour, colour, appearance, packaging, labelling, volume or size such, that it is likely a person, particularly a child, may confuse the product with foodstuff, and in consequence thereof, place the product in his mouth or suck or ingest the product which might be dangerous or cause suffocation, poisoning or the perforation or obstruction of the digestive tract.

Importation and exportation.

3.(1) A person who imports into Gibraltar either for his own consumption or for consumption by another person or in a commercial quantity, a dangerous imitation, is guilty of an offence.

(2) A person who exports from Gibraltar either for his own consumption or for consumption by another person or in a commercial quantity, a dangerous imitation, is guilty of an offence.

Manufacture of dangerous imitation.

4. A person who, in or from Gibraltar, manufactures a dangerous imitation, is guilty of an offence.

Marketing and selling of a dangerous imitation.

5. A person who, in or from Gibraltar, trades in or provides the sale, supply or distribution of, or does anything with the intention of trading in or promoting the sale, supply or distribution of, at dangerous imitation in Gibraltar or elsewhere, is guilty of an offence.

Offences by corporations.

6. Where any offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate, shall be deemed to be guilty of that offence and is liable to be proceeded against and punished accordingly.

Penalties.

7.(1) A person found guilty of an offence under section 3, where the dangerous imitation was intended for that person's own use, shall be liable, on summary conviction, to a fine at level 3 on the standard scale.

(2) A person found guilty of an offence—

(a) under section 3, where the dangerous imitation was intended for consumption by another person or was in a commercial quantity; or

(b) under section 4 or 5,

shall be liable—

(i) on summary conviction—

(aa) in the case of a corporation, to a fine at level 5 on the standard scale;

(bb) in the case of an individual, to a fine at level 4 on the standard scale or to three months imprisonment or to both;

(ii) on conviction on indictment—

(aa) in the case of a corporation, to a fine;

(bb) in the case of an individual, to imprisonment for a period not exceeding six months or to a fine or to both.

(3) A dangerous imitation shall be forfeited and destroyed.

(4) Where a person is convicted of an offence under this Act, the court may order that any vessel or vehicle be forfeited to the Crown if—

(a) it was employed in the commission of the offence;

- (b) it was, at the time of the offence, in the ownership or under the control of the offender or one of the offenders where there was more than one; or
 - (c) it is shown to the satisfaction of the court that the owner of the vessel or vehicle or the person in charge or control of the vessel or vehicle, knew or suspected or had reason to suspect that the vessel or vehicle was being employed in the commission of an offence under this Act.
- (5) The provision of section 125 of the Imports and Exports Act, 1986¹ shall apply to anything liable to forfeiture under this Act.

¹ 1986-21