
STATUTORY INSTRUMENTS

1991 No. 762

The Food Safety (Northern Ireland) Order 1991

PART II

GENERAL PROVISIONS AS TO FOOD

Defences, etc.

Offences due to fault of another person

^{F1}19. Where the commission by any person of an offence under any of the preceding provisions of this Part is due to an act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this Article whether or not proceedings are taken against the first#mentioned person.

F1 mod. by SR 2005/284

Modifications etc. (not altering text)

- C1 Art. 19 applied (with modifications) (20.5.2006) by Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006 (S.R. 2006/217), **reg. 7(a)**;
Art. 19 applied (with modifications) (1.7.2006) by Contaminants in Food Regulations (Northern Ireland) 2006 (S.R. 2006/256), **reg. 5(1)(b)**;
Art. 19 applied (with modifications) (18.10.2006) by Curd Cheese (Restrictions on Placing on the Market) Regulations (Northern Ireland) 2006 (S.R. 2006/415), **reg. 4(a)**;
Art. 19 applied (with modifications) (9.11.2006) by Rice Products (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2006 (S.R. 2006/443), **reg. 5(a)**
- C2 mod. by SR 2004/487
- C3 Art. 19 applied (1.3.2007) by Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007 (S.R. 2007/60), **reg. 7(c)**
- C4 Art. 19 applied (with modifications) (1.3.2007) by Quick-frozen Foodstuffs Regulations (Northern Ireland) 2007 (S.R. 2007/65), **reg. 10(c)**
- C5 Art. 19 applied (with modifications) (1.3.2007) by Contaminants in Food Regulations (Northern Ireland) 2007 (S.R. 2007/66), **reg. 5(1)(b)**
- C6 Art. 19 applied (with modifications) (1.3.2007) by Quick-frozen Foodstuffs (No.2) Regulations (Northern Ireland) 2007 (S.R. 2007/110), **reg. 10(c)**
- C7 Art. 19 applied (with modifications) (7.8.2007) by Addition of Vitamins, Minerals and Other Substances Regulations (Northern Ireland) 2007 (S.R. 2007/301), **reg. 5(c)**
- C8 Art. 19 applied (with modifications) (1.10.2007) by Nutrition and Health Claims Regulations (Northern Ireland) 2007 (S.R. 2007/349), **reg. 6(c)**
- C9 Art. 19 applied (with modifications) (3.8.2007) by Food (Suspension of the Use of E 128 Red 2G as Food Colour) Regulations (Northern Ireland) 2007 (S.R. 2007/352), **reg. 5(a)**
- C10 Art. 19 applied (31.10.2007) by Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 (S.R. 2007/420), **reg. 22(1)(c)** (with reg. 3)

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Changes to legislation: There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Cross Heading: Defences, etc.. (See end of Document for details)

- C11** Art. 19 applied (with modifications) (11.1.2008) by Infant Formula and Follow-on Formula Regulations (Northern Ireland) 2007 (S.R. 2007/506), **reg. 29(b)**
- C12** Art. 19 applied (with modifications) (12.3.2008) by Rice Products from the United States of America (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2008 (S.R. 2008/99), **reg. 5(a)**
- C13** Art. 19 applied (with modifications) (14.4.2008) by Eggs and Chicks Regulations (Northern Ireland) 2008 (S.R. 2008/98), **reg. 20**
- C14** Art. 19 applied (with modifications) (15.4.2008) by Specified Products from China (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2008 (S.R. 2008/171), **reg. 6(a)**
- C15** Art. 19 applied (with modifications) (1.7.2008) by Drinking Milk Regulations (Northern Ireland) 2008 (S.R. 2008/237), **reg. 7(d)**
- C16** Art. 19 applied (with modifications) (1.7.2008) by Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) Regulations (Northern Ireland) 2008 (S.R. 2008/239), regs. 3, **7(d)**
- C17** Art. 19 applied (with modifications) (22.12.2008) by Eggs and Chicks (No. 2) Regulations (Northern Ireland) 2008 (S.R. 2008/451), **reg. 20**
- C18** Art. 19 applied (with modifications) (1.7.2009) by Contaminants in Food Regulations (Northern Ireland) 2009 (S.R. 2009/220), **reg. 5(1)(b)**
- C19** Art. 19 applied (with modifications) (31.7.2009) by Food Irradiation Regulations (Northern Ireland) 2009 (S.R. 2009/258), **reg. 11(1)(d)**
- C20** Art. 19 applied (with modifications) (1.1.2010) by Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009 (S.R. 2009/398), **reg. 4(b)**
- C21** Art. 19 applied (with modifications) (20.1.2010) by Food Enzymes Regulations (Northern Ireland) 2009 (S.R. 2009/415), **reg. 5(1)(a)**
- C22** Art. 19 applied (with modifications) (20.1.2010) by Food Additives Regulations (Northern Ireland) 2009 (S.R. 2009/416), **reg. 16(1)(b)**
- C23** Art. 19 applied (with modifications) (20.1.2010) by Food (Jelly Mini-Cups) (Emergency Control) Regulations (Northern Ireland) 2009 (S.R. 2009/417), **reg. 5(1)(b)**
- C24** Art. 19 applied (with modifications) (6.4.2010) by Fish Labelling Regulations (Northern Ireland) 2010 (S.R. 2010/54), **reg. 10(b)**
- C25** Art. 19 applied (with modifications) (28.4.2010) by Eggs and Chicks Regulations (Northern Ireland) 2010 (S.R. 2010/125), **reg. 29**
- C26** Art. 19 applied (with modifications) (20.10.2010) by Contaminants in Food Regulations (Northern Ireland) 2010 (S.R. 2010/335), **reg. 5(1)(b)**
- C27** Art. 19 applied (with modifications) (20.1.2011) by Flavourings in Food Regulations (Northern Ireland) 2010 (S.R. 2010/414), **reg. 5(1)(a)**
- C28** Art. 19 applied (with modifications) (1.7.2011) by Plastic Kitchenware (Conditions on Imports from China) Regulations (Northern Ireland) 2011 (S.R. 2011/236), **reg. 11(1)(a)**
- C29** Art. 19 applied (with modifications) (1.1.2012) by The Foodstuffs Suitable for People Intolerant to Gluten Regulations (Northern Ireland) 2010 (S.R. 2010/338), regs. 1, **5(b)**
- C30** Art. 19 applied with modifications (7.10.2013) by The Fish Labelling Regulations (Northern Ireland) 2013 (S.R. 2013/219), regs. 1, 9, **Sch. Pt. 1 para. 1**
- C31** Art. 19 applied with modifications (31.10.2013) by The Contaminants in Food Regulations (Northern Ireland) 2013 (S.R. 2013/229), regs. 1, **8(1)(b)**
- C32** Art. 19 applied with modifications (31.10.2013) by The Food Additives, Flavourings, Enzymes and Extraction Solvents Regulations (Northern Ireland) 2013 (S.R. 2013/220), regs. 1, 19, **Sch. 5**
- C33** Art. 19 applied with modifications (20.11.2013) by The Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 (S.R. 2013/253), regs. 1(1), 19, **Sch.**
- C34** Art. 19 applied with modifications (20.11.2013) by The Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 (S.R. 2013/253), regs. 1(1), 19, **Sch. 14**
- C35** Art. 19 applied (with modifications) (13.12.2014) by The Food Information Regulations (Northern Ireland) 2014 (S.R. 2014/223), regs. 1(2), 12, **Sch. 4 Pt. 4**

- C36** Art. 19 applied (with modifications) (13.12.2014) by [The Products Containing Meat etc. Regulations \(Northern Ireland\) 2014 \(S.R. 2014/285\)](#), regs. 1, 9, **Sch. 2**
- C37** Art. 19 applied (with modifications) (24.6.2015) by [The Honey Regulations \(Northern Ireland\) 2015 \(S.R. 2015/261\)](#), reg. 1, **Sch. 2**
- C38** Art. 19 applied (with modifications) (11.9.2015) by [The Country of Origin of Certain Meats Regulations \(Northern Ireland\) 2015 \(S.R. 2015/321\)](#), regs. 1, 6(4), **Sch. Pt. 4**
- C39** Art. 19 applied (with modifications) (28.11.2015) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations \(Northern Ireland\) 2015 \(S.R. 2015/365\)](#), regs. 1, 34(3), **Sch. 12 Pt. 4 Table**

Defence of due diligence

20.—(1) In any proceedings for an offence under any of the preceding provisions of this Part, it shall, subject to paragraph (5), be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(2) Without prejudice to the generality of paragraph (1), a person charged with an offence under^{F2} Article 13 or 14] who neither—

- (a) prepared the food in respect of which the offence is alleged to have been committed; nor
- (b) imported it into Northern Ireland,

shall be taken to have established the defence provided by that paragraph if he satisfies the requirements of paragraph (3) or (4).

(3) A person satisfies the requirements of this paragraph if he proves—

- (a) that the commission of the offence was due to an act or default of another person who was not under his control, or to reliance on information supplied by such a person;
- (b) that he carried out all such checks of the food in question as were reasonable in all the circumstances, or that it was reasonable in all the circumstances for him to rely on checks carried out by the person who supplied the food to him; and
- (c) that he did not know and had no reason to suspect at the time of the commission of the alleged offence that his act or omission would amount to an offence under the relevant provision.

(4) A person satisfies the requirements of this paragraph if he proves—

- (a) that the commission of the offence was due to an act or default of another person who was not under his control, or to reliance on information supplied by such a person;
- (b) that the sale or intended sale of which the alleged offence consisted was not a sale or intended sale under his name or mark; and
- (c) that he did not know, and could not reasonably have been expected to know, at the time of the commission of the alleged offence that his act or omission would amount to an offence under the relevant provision.

(5) If in any case the defence provided by paragraph (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless—

- (a) at least 7 clear days before the hearing; and
- (b) where he has previously appeared before a court in connection with the alleged offence, before the expiration of one month from his first such appearance,

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he has served on the prosecution a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(6) In paragraph (5) any reference to appearing before a court shall be construed as including a reference to being brought before a court.

F2 SR 2004/505

Modifications etc. (not altering text)

- C40** Art. 20 applied (with modifications) (1.7.2006) by Contaminants in Food Regulations (Northern Ireland) 2006 (S.R. 2006/256), **reg. 5(1)(c)**;
 Art. 20 applied (with modifications) (18.10.2006) by Curd Cheese (Restriction on Placing on the Market) Regulations (Northern Ireland) 2006 (S.R. 2006/415), **reg. 4(b)**;
 Art. 20 applied (with modifications) (9.11.2006) by Rice Products (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2006 (S.R. 2006/443), **reg. 5(b)**
- C41** mod. by SR 2004/487
- C42** Art. 20 applied (1.3.2007) by Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007 (S.R. 2007/60), **reg. 7(d)**
- C43** Art. 20 applied (with modifications) (1.3.2007) by Quick-frozen Foodstuffs Regulations (Northern Ireland) 2007 (S.R. 2007/65), **reg. 10(d)**
- C44** Art. 20 applied (with modifications) (1.3.2007) by Contaminants in Food Regulations (Northern Ireland) 2007 (S.R. 2007/66), **reg. 5(1)(c)**
- C45** Art. 20 applied (with modifications) (1.3.2007) by Quick-frozen Foodstuffs (No.2) Regulations (Northern Ireland) 2007 (S.R. 2007/110), **reg. 10(d)**
- C46** Art. 20 applied (with modifications) (7.8.2007) by Addition of Vitamins, Minerals and Other Substances Regulations (Northern Ireland) 2007 (S.R. 2007/301), **reg. 5(d)**
- C47** Art. 20 applied (with modifications) (1.10.2007) by Nutrition and Health Claims Regulations (Northern Ireland) 2007 (S.R. 2007/349), **reg. 6(d)**
- C48** Art. 20 applied (with modifications) (3.8.2007) by Food (Suspension of the Use of E 128 Red 2G as Food Colour) Regulations (Northern Ireland) 2007 (S.R. 2007/352), **reg. 5(b)**
- C49** Art. 20 applied (31.10.2007) by Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 (S.R. 2007/420), **reg. 22(1)(d)** (with reg. 3)
- C50** Art. 20 applied (with modifications) (11.1.2008) by Infant Formula and Follow-on Formula Regulations (Northern Ireland) 2007 (S.R. 2007/506), **reg. 29(c)**
- C51** Art. 20 applied (with modifications) (12.3.2008) by Rice Products from the United States of America (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2008 (S.R. 2008/99), **reg. 5(b)**
- C52** Art. 20 applied (with modifications) (14.4.2008) by Eggs and Chicks Regulations (Northern Ireland) 2008 (S.R. 2008/98), **reg. 20**
- C53** Art. 20 applied (with modifications) (15.4.2008) by Specified Products from China (Restriction on First Placing on the Market) Regulations (Northern Ireland) 2008 (S.R. 2008/171), **reg. 6(b)**
- C54** Art. 20 applied (with modifications) (1.7.2008) by Drinking Milk Regulations (Northern Ireland) 2008 (S.R. 2008/237), **reg. 7(e)**
- C55** Art. 20 applied (with modifications) (1.7.2008) by Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) Regulations (Northern Ireland) 2008 (S.R. 2008/239), **regs. 3, 7(e)**
- C56** Art. 20 applied (with modifications) (22.12.2008) by Eggs and Chicks (No. 2) Regulations (Northern Ireland) 2008 (S.R. 2008/451), **reg. 20**
- C57** Art. 20 applied (with modifications) (1.7.2009) by Contaminants in Food Regulations (Northern Ireland) 2009 (S.R. 2009/220), **reg. 5(1)(c)**
- C58** Art. 20 applied (with modifications) (31.7.2009) by Food Irradiation Regulations (Northern Ireland) 2009 (S.R. 2009/258), **reg. 11(1)(e)**

- C59** Art. 20 applied (with modifications) (1.1.2010) by Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009 (S.R. 2009/398), **reg. 4(c)**
- C60** Art. 20 applied (with modifications) (20.1.2010) by Food Enzymes Regulations (Northern Ireland) 2009 (S.R. 2009/415), **reg. 5(1)(b)**
- C61** Art. 20 applied (with modifications) (20.1.2010) by Food Additives Regulations (Northern Ireland) 2009 (S.R. 2009/416), **reg. 16(1)(c)**
- C62** Art. 20 applied (with modifications) (20.1.2010) by Food (Jelly Mini-Cups) (Emergency Control) Regulations (Northern Ireland) 2009 (S.R. 2009/417), **reg. 5(1)(c)**
- C63** Art. 20 applied (with modifications) (6.4.2010) by Fish Labelling Regulations (Northern Ireland) 2010 (S.R. 2010/54), **reg. 10(c)**
- C64** Art. 20 applied (with modifications) (28.4.2010) by Eggs and Chicks Regulations (Northern Ireland) 2010 (S.R. 2010/125), **reg. 29**
- C65** Art. 20 applied (with modifications) (20.10.2010) by Contaminants in Food Regulations (Northern Ireland) 2010 (S.R. 2010/335), **reg. 5(1)(c)**
- C66** Art. 20 applied (with modifications) (20.1.2011) by Flavourings in Food Regulations (Northern Ireland) 2010 (S.R. 2010/414), **reg. 5(1)(b)**
- C67** Art. 20 applied (with modifications) (1.7.2011) by Plastic Kitchenware (Conditions on Imports from China) Regulations (Northern Ireland) 2011 (S.R. 2011/236), **reg. 11(1)(b)**
- C68** Art. 20 applied (with modifications) (1.1.2012) by The Foodstuffs Suitable for People Intolerant to Gluten Regulations (Northern Ireland) 2010 (S.R. 2010/338), **regs. 1, 5(c)**
- C69** Art. 20 applied with modifications (7.10.2013) by The Fish Labelling Regulations (Northern Ireland) 2013 (S.R. 2013/219), **regs. 1, 9, Sch. Pt. 1 para. 1**
- C70** Art. 20 applied with modifications (31.10.2013) by The Contaminants in Food Regulations (Northern Ireland) 2013 (S.R. 2013/229), **regs. 1, 8(1)(c)**
- C71** Art. 20 applied with modifications (31.10.2013) by The Food Additives, Flavourings, Enzymes and Extraction Solvents Regulations (Northern Ireland) 2013 (S.R. 2013/220), **regs. 1, 19, Sch. 5**
- C72** Art. 20 applied with modifications (20.11.2013) by The Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 (S.R. 2013/253), **regs. 1(1), 19, Sch. 14**
- C73** Art. 20 applied with modifications (20.11.2013) by The Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013 (S.R. 2013/253), **regs. 1(1), 19, Sch.**
- C74** Art. 20 applied (with modifications) (13.12.2014) by The Food Information Regulations (Northern Ireland) 2014 (S.R. 2014/223), **regs. 1(2), 12, Sch. 4 Pt. 4**
- C75** Art. 20 applied (with modifications) (28.11.2015) by The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015 (S.R. 2015/365), **regs. 1, 34(3), Sch. 12 Pt. 4 Table**
- C76** Art. 20(1) applied (with modifications) (20.5.2006) by Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006 (S.R. 2006/217), **reg. 7(b)**
- C77** Art. 20(1) applied (with modifications) (13.12.2014) by The Products Containing Meat etc. Regulations (Northern Ireland) 2014 (S.R. 2014/285), **regs. 1, 9, Sch. 2**
- C78** Art. 20(1)(5) applied (with modifications) (24.6.2015) by The Honey Regulations (Northern Ireland) 2015 (S.R. 2015/261), **reg. 1, Sch. 2**
- C79** Art. 20(1) applied (with modifications) (11.9.2015) by The Country of Origin of Certain Meats Regulations (Northern Ireland) 2015 (S.R. 2015/321), **regs. 1, 6(4), Sch. Pt. 4**
- C80** Art. 20(5) applied (with modifications) (20.5.2006) by Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006 (S.R. 2006/217), **reg. 7(b)**
- C81** Art. 20(5) applied (with modifications) (13.12.2014) by The Products Containing Meat etc. Regulations (Northern Ireland) 2014 (S.R. 2014/285), **regs. 1, 9, Sch. 2**
- C82** Art. 20(6) applied (with modifications) (20.5.2006) by Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006 (S.R. 2006/217), **reg. 7(b)**

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Changes to legislation: There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Cross Heading: Defences, etc.. (See end of Document for details)

Defence of publication in the course of business

21. In proceedings for an offence under any of the preceding provisions of this Part consisting of the advertisement for sale of any food, it shall be a defence for the person charged to prove—

- (a) that he is a person whose business it is to publish or arrange for the publication of advertisements; and
- (b) that he received the advertisement in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under that provision.

Modifications etc. (not altering text)

- C83** Art. 21 applied (1.3.2007) by [Notification of Marketing of Food for Particular Nutritional Uses Regulations \(Northern Ireland\) 2007 \(S.R. 2007/60\)](#), **reg. 7(e)**
- C84** Art. 21 applied (with modifications) (7.8.2007) by [Addition of Vitamins, Minerals and Other Substances Regulations \(Northern Ireland\) 2007 \(S.R. 2007/301\)](#), **reg. 5(e)**
- C85** Art. 21 applied (with modifications) (1.10.2007) by [Nutrition and Health Claims Regulations \(Northern Ireland\) 2007 \(S.R. 2007/349\)](#), **reg. 6(e)**
- C86** Art. 21 applied (31.10.2007) by [Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations \(Northern Ireland\) 2007 \(S.R. 2007/420\)](#), **reg. 22(1)(e)** (with reg. 3)
- C87** Art. 21 applied (with modifications) (1.7.2008) by [Spreadable Fats \(Marketing Standards\) and the Milk and Milk Products \(Protection of Designations\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/239\)](#), regs. 3, **7(f)**
- C88** Art. 21 applied (with modifications) (20.1.2010) by [Food Additives Regulations \(Northern Ireland\) 2009 \(S.R. 2009/416\)](#), **reg. 16(1)(d)**
- C89** Art. 21 applied (with modifications) (13.12.2014) by [The Food Information Regulations \(Northern Ireland\) 2014 \(S.R. 2014/223\)](#), regs. 1(2), 12, **Sch. 4 Pt. 4**

Status:

Point in time view as at 28/11/2015.

Changes to legislation:

There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Cross Heading: Defences, etc..