
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 385

**The Genetically Modified Food
Regulations (Northern Ireland) 2004**

Inspection, detention and seizure of suspected food

7.—(1) Article 7(2) of the Order shall apply for the purposes of these Regulations as if it read as follows –

“(2) Where any food which fails to comply with a specified Community provision within the meaning of the Genetically Modified Food Regulations (Northern Ireland) 2004 is part of a batch, lot or consignment of food of the same class or description, it shall be presumed for the purposes of Article 8 as applied by those Regulations until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with that specified Community provision.”.

(2) Article 8 of the Order shall apply for the purposes of these Regulations as if it read as follows –

“8.—(1) An authorised officer may at all reasonable times inspect any food intended for human consumption which –

- (a) has been placed on the market; or
- (b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of placing it on the market;

and paragraphs (2) to (9) shall apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food fails to comply with a specified Community provision.

(2) The authorised officer may either –

- (a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it –
 - (i) is not to be used for human consumption; and
 - (ii) either is not to be removed or is not to be removed except to some place specified in the notice; or
- (b) seize the food and remove it in order to have it dealt with by a justice of the peace;

and any person who knowingly contravenes the requirements of a notice under sub-paragraph (a) shall be guilty of an offence.

(3) Where the authorised officer gives notice under paragraph (2)(a), he shall, as soon as is reasonably practicable and in any event before the expiration of 21 days, determine whether or not he is satisfied that the food complies with the specified Community provisions and –

- (a) if he is so satisfied, shall forthwith withdraw the notice;
- (b) if he is not so satisfied, shall seize the food and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer seizes and removes food under paragraph (2)(b) or (3)(b), he shall inform the person in charge of the food of his intention to have it dealt with by a justice of the peace and –

- (a) any person who under regulation 5 of the Genetically Modified Food Regulations (Northern Ireland) 2004 might be liable to a prosecution in respect of the food shall, if he attends before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) that justice of the peace may, but need not, be a member of the court before which any person is charged with an offence in relation to that food.

(5) If it appears to a justice of the peace, on the basis of such evidence as he considers appropriate in the circumstances, that any food falling to be dealt with by him under this Article fails to comply with a specified Community provision then, subject to paragraph (6), he shall condemn the food and order –

- (a) that food to be destroyed or to be so disposed of as to prevent it from being used for human consumption or animal feed; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the operator.

(6) In the case of a food referred to in Article 3.1 which is the subject of an authorisation granted under Regulation 1829/2003 and has been produced in accordance with any conditions relating to that authorisation but does not bear the appropriate labelling as required by Article 13 the justice of the peace may, at his discretion, order –

- (a) that the food be labelled properly as soon as is reasonably practicable and at the expense of the operator; and
- (b) the release of the food into the custody of the operator.

(7) If a notice under paragraph (2)(a) is withdrawn, or the justice of the peace by whom any food falls to be dealt with under this Article refuses to condemn it or to make an order for the proper labelling of the food, the district council shall compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.

(8) Any disputed question as to the right to or the amount of any compensation payable under paragraph (7) shall be determined by a single arbitrator appointed, failing agreement between the parties, by the Department; and the provisions of the Arbitration Act 1996(1) shall apply accordingly.

(9) In this Article “specified Community provision” has the same meaning as in the Genetically Modified Food Regulations (Northern Ireland) 2004.”.