
STATUTORY RULES OF NORTHERN IRELAND

2005 No. 538

The Contaminants in Food Regulations (Northern Ireland) 2005

Application of various provisions of the Food Safety (Northern Ireland) Order 1991

6.—(1) The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in them to the Order or Part thereof shall be construed as a reference to these Regulations—

- (a) Article 4 (presumptions that food intended for human consumption);
- (b) Article 19 (offences due to fault of another person);
- (c) Article 20 (defence of due diligence), as it applies for the purposes of Article 13 or 14;
- (d) Article 30(8) (which relates to documentary evidence);
- (e) Article 34(1) (obstruction etc. of officers);
- (f) Article 34(2), with the modification that the reference to “any such requirement as is mentioned in paragraph (1)(b)” shall be deemed to be a reference to any such requirement as is mentioned in Article 34(1)(b) as applied by sub-paragraph (e);
- (g) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by sub-paragraph (e);
- (h) Article 36(2) and (3), insofar as it relates to offences under Article 34(2) as applied by sub-paragraph (f).

(2) Subject to paragraph (3), Article 8 of the Order (inspection and seizure of suspected food) 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 has been placed on the market; and paragraphs (2) to (7) shall apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food contravenes regulation 3(1)(a) of the Contaminants in Food Regulations (Northern Ireland) 2005.

(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- (a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it—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 to be removed to a place at which there are facilities to carry out the sampling required by Directive 98/53/EC, Directive 2001/22/EC, Directive 2002/26/EC, Directive 2002/69/EC, Directive 2003/78/EC, Directive 2004/16/EC or Directive 2005/10/EC, as appropriate; or
- (b) seize the food and remove it in order to have it dealt with by a justice of the peace.

(3) Where the authorised officer exercises the power conferred by paragraph (2)(a), he shall, as soon as is reasonably practicable and in any event within 21 days, determine

whether or not he is satisfied that the food complies with the requirements of regulation 3(1) (a) of the aforesaid Regulations, as appropriate 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 exercises the powers conferred by 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 3(1)(a) of the aforesaid Regulations 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 proceeded against for an offence consisting of a contravention of regulation 3(1)(a) of the aforesaid Regulations 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 the requirements of regulation 3(1)(a) of the aforesaid Regulations he shall condemn the food and order—

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

(6) 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, 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.

(7) Any disputed question as to the right to or the amount of any compensation payable under paragraph (6) shall be determined by a single arbitrator appointed, failing agreement between the parties, by the Department.

(8) Any person who knowingly contravenes the requirements of a notice under paragraph (2)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

(3) The expressions “placing on the market”, “Directive 98/53/EC”, “Directive 2001/22/EC”, “Directive 2002/26/EC”, “Directive 2002/69/EC”, “Directive 2003/78/EC”, “Directive 2004/16/EC” and “Directive 2005/10/EC” which are used in Article 8 of the Order so far as it applies for the purposes of these Regulations by virtue of paragraph (2), shall, for those purposes, bear the meanings that those expressions respectively bear in these Regulations.