
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 427

**The Official Feed and Food Controls
Regulations (Northern Ireland) 2009**

PART 2

MAIN PROVISIONS

Right of appeal

12.—(1) Any person who is aggrieved by a decision of the competent authority taken in respect of an establishment subject to approval under Article 4(2) of Regulation 853/2004 pursuant to —

- (a) Article 31(2)(c) of Regulation 882/2004 (approval);
- (b) Article 31(2)(d) of Regulation 882/2004 (conditional approval and full approval); or
- (c) Article 31(2)(e) of Regulation 882/2004 (withdrawal of approval and suspension of approval),

may appeal to a court of summary jurisdiction.

(2) The procedure on an appeal to a court of summary jurisdiction under paragraph (1) shall be by way of notice under Part VII of the Magistrates' Courts (Northern Ireland) Order 1981(1).

(3) The period within which an appeal under paragraph (1) may be brought shall be one month from and including the date on which notice of the decision was served on the person desiring to appeal.

(4) Where on an appeal under paragraph (1) a court of summary jurisdiction determines that the decision of the competent authority is incorrect, the authority shall give effect to the determination of the court.

(5) Where an approval is refused or withdrawn, the food business operator who, immediately before such refusal or withdrawal, had been using the establishment concerned may continue to use it, subject to any conditions imposed by the competent authority for the protection of public health, unless —

- (a) the time for appealing against the decision to refuse or withdraw the approval has expired without an appeal having been lodged; and
 - (b) where an appeal against that decision has been lodged, the appeal has been finally disposed of or abandoned.
- (6) Nothing in paragraph (5) shall permit an establishment to be used for a food business if —
- (a) a hygiene prohibition order, a hygiene emergency prohibition notice or a hygiene emergency prohibition order has been imposed in relation to the establishment;

- (b) a prohibition order, an emergency prohibition notice, an emergency prohibition order or an emergency control order has been imposed in relation to the establishment pursuant to Article 10, 11 or 12 of the Order;
 - (c) the approval of the establishment has been suspended pursuant to Article 31(2)(e) of Regulation 882/2004; or
 - (d) the establishment is prevented from operating following the service of a remedial action notice.
- (7) In this regulation each of the terms “hygiene prohibition order”, “hygiene emergency prohibition notice”, “hygiene emergency prohibition order” and “remedial action notice” has the meaning that it bears in the Food Hygiene Regulations (Northern Ireland) 2006(2).