
STATUTORY RULES OF NORTHERN IRELAND

2013 No. 229

The Contaminants in Food Regulations (Northern Ireland) 2013

PART 4

Administration and enforcement

Penalties

6. Anyone convicted of an offence under regulation 4(3) or regulation 5(1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Enforcement and competent authorities

7.—(1) It is the duty of each district council within its district to execute and enforce —

- (a) these regulations;
- (b) Commission Regulation 1881/2006; and
- (c) Commission Regulation 124/2009, save for the requirement in paragraph 2 of Article 1(1) of that Regulation (requirement to investigate the reasons for a finding of a significant residue level below the maximum).

(2) The competent authority for the purposes of Article 2(2) of Commission Regulation 1881/2006 (justification by food business operators of concentration or dilution factors) is the district council having the duty to enforce under paragraph (1).

(3) The competent authority for the purposes of paragraph 2 of Article 1(1) of Commission Regulation 124/2009 (requirement to investigate the reasons for a finding of a significant residue level below the maximum) is the Department of Agriculture and Rural Development.

(4) It is the duty of the Department of Agriculture and Rural Development to execute and enforce paragraph 2 of Article 1(1) of Commission Regulation 124/2009 (requirement to investigate the reasons for a finding of a significant residue level below the maximum).

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

8.—(1) The following provisions of the Order apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or Part of it is to 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) with the modification that—
 - (i) paragraphs (2) to (4) apply in relation to an offence under regulation 4(3) or 5(1) as they apply in relation to an offence under Article 13 or 14, and
 - (ii) in paragraph (4) the references to “sale” are deemed to include references to “placing on the market”;

- (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); and
 - (h) Article 36(2) and (3), in so far 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) applies 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 fails to comply with the requirements specified in regulation 4(1) or 5(2) of the Contaminants in Food Regulations (Northern Ireland) 2013 (“the EU requirements”).

(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 sampling in the manner required by law; 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 gives notice under paragraph (2)(a), that officer shall, as soon as is reasonably practicable and in any event within 21 days, determine whether or not the food complies with the EU requirements and —

- (a) if satisfied that it does comply, shall forthwith withdraw the notice;
- (b) if 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), the officer shall inform the person in charge of the food of the intention to have it dealt with by a justice of the peace and —

- (a) any person who in connection with any of the EU requirements might be liable to a prosecution in respect of the food shall, if that person 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 in connection with any of the EU requirements in relation to that food.

(5) If it appears to a justice of the peace, on the basis of such evidence as the justice considers appropriate in the circumstances, that any food falling to be dealt with under this Article fails to comply with any of the EU requirements the justice 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 or, as the case may be, the Department of Agriculture and Rural Development, 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 arbitration.

(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.”.

Consequential amendment

9. In the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013⁽¹⁾, in Schedule 1 (provisions to which those Regulations do not apply) for “The Contaminants in Food Regulations (Northern Ireland) 2010”⁽²⁾ in column 1 substitute “The Contaminants in Food Regulations (Northern Ireland) 2013” and in column 2 for the reference “S.R. 2010 No. 335” substitute the reference to these regulations.

Revocations

10. The following Regulations are revoked —

- (a) The Mineral Hydrocarbons in Food Regulations (Northern Ireland) 1966⁽³⁾;
- (b) The Erucic Acid in Food Regulations (Northern Ireland) 1977⁽⁴⁾;
- (c) The Erucic Acid in Food (Amendment) Regulations (Northern Ireland) 1982⁽⁵⁾; and
- (d) The Contaminants in Food Regulations (Northern Ireland) 2010.

(1) S.R. 2013 No. 66
(2) S.R. 2010 No. 335
(3) S.R. 1966 No. 200
(4) S.R. 1977 No. 135
(5) S.R. 1982 No. 184