

## SCHEDULE 2

Regulation 5

### Application and modification of provisions of the Order

## PART 1

### Modification of Article 9(1)

1. For Article 9(1) of the Order (improvement notices) substitute—

“(1) If an authorised officer has reasonable grounds for believing that a person is failing to comply with any provision specified in Schedule 1 to the Novel Foods Regulations (Northern Ireland) 2017, the authorised officer may, by a notice served on that person (in this Order referred to as an “improvement notice”) —

- (a) state the officer’s grounds for believing that the person is failing to comply with the relevant provision;
- (b) specify the matters which constitute the person’s failure so to comply;
- (c) specify the measures which, in the officer’s opinion, the person must take in order to secure compliance; and
- (d) require the person to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.”.

#### Commencement Information

**II** Sch. 2 para. 1 in operation at 1.1.2018, see [reg. 1](#)

## PART 2

### Modification of Article 8

2. For Article 8 (inspection and seizure of suspected food) substitute—

“(1) This Article applies where it appears to an authorised officer that Article 6(2) of Regulation (EU) 2015/2283 is being, or has been contravened in relation to any food which has been placed on the market.

(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(a) give notice to the person in charge of the food that, until the notice is withdrawn, the food—

(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 subparagraph (a) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Where the authorised officer gives notice under paragraph (2)(a), the authorised officer shall, as soon as is reasonably practicable and in any event within 21 days from the

date of the notice, determine whether or not they are satisfied that the food complies with Article 6(2) of Regulation (EU) 2015/2283, and—

- (a) if so satisfied, immediately withdraw the notice;
- (b) if not so satisfied, 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 authorised officer shall inform the person in charge of the food that it is to be dealt with by a justice of the peace and any person who might be liable to a prosecution in respect of the food shall, if attending before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses.

(5) If it appears to a justice of the peace, on the basis of such evidence as the justice of the peace considers appropriate in the circumstances, that any food falling to be dealt with under this Article fails to comply with Article 6(2) of Regulation (EU) 2015/2283, the justice of the peace shall condemn the food and order—

- (a) the food to be destroyed or to be 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 arbitration.

(8) For the purpose of this Article, “Regulation (EU) 2015/2283” means Regulation (EU) 2015/2283 of the European Parliament and of the Council of 25 November 2015 on novel foods, amending Regulation (EU) No 1169/2011 of the European Parliament and of the Council and repealing Regulation (EC) No 258/97 of the European Parliament and of the Council and [Commission Regulation \(EC\) No 1852/2001](#).”.

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**Commencement Information**

**I2** Sch. 2 para. 2 in operation at 1.1.2018, see [reg. 1](#)

## PART 3

### Application and modification of other provisions of the Order

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**Commencement Information**

**I3** Sch. 2 Pt. 3 in operation at 1.1.2018, see [reg. 1](#)

<i>Column 1</i>	<i>Column 2</i>
<i>Provision of the Order</i>	<i>Modifications</i>
Article 2(4) (extended meaning of “sale” etc.)	For “this Order” substitute “the Novel Foods Regulations (Northern Ireland) 2017,”
Article 3 (application to food offered as prizes, etc.)	For “this Order” substitute “the Novel Foods Regulations (Northern Ireland) 2017,”.
Article 4 (presumptions that food intended for human consumption)	For “this Order” substitute “the Novel Foods Regulations (Northern Ireland) 2017,”.
Article 19 (offences due to fault of another person)	For “any of the preceding provisions of this Part” substitute “Article 9(2) as applied by regulation 5(1) of the Novel Foods Regulations (Northern Ireland) 2017 or regulation 4 of those regulations,”
Article 20(1) and (5) (defence of due diligence)	In paragraph (1), for “any of the preceding provisions of this Part” substitute “Article 9(2), as applied by regulation 5(1) of the Novel Foods Regulations (Northern Ireland) 2017 or regulation 4 of those regulations,”.
Article 30(8) (which relates to documentary evidence)	For “this Order” substitute “ the Novel Foods Regulations (Northern Ireland) 2017,”
Article 33 (powers of entry)	In paragraph (1) for subparagraphs (a) to (c) substitute “(a) to enter any premises within the council’s district for the purpose of ascertaining whether there is or has been on the premises any contravention of any of the provisions of Schedule 1 of the Novel Foods Regulations (Northern Ireland) 2017 (except the first provision specified in the table in Schedule 1 “Article 4(1)”.”
Article 34 (obstruction etc. of officers)	In each place occurring in paragraph (1), for “this Order” substitute “the Novel Foods Regulations (Northern Ireland) 2017”.
Article 37 (appeals)	For paragraph (1) substitute “(1) Any person who is aggrieved by a decision of an authorised officer to serve an improvement notice under Article 9(1) as applied and modified by regulation 5(1) and Schedule 2 of the Novel Foods Regulations (Northern Ireland) 2017 may appeal to a court of summary jurisdiction”.
	In paragraph (2A)(b) for “(1)(a)” substitute “(1) as applied by regulation 5(2) of the Novel Food Regulations (Northern Ireland) 2017
Article 38 (appeals against improvement notices)	In both paragraphs (1) and (2) insert “as applied and modified by regulation 5(1) and Schedule 2 of the Novel Foods Regulations (Northern Ireland) 2017,” after “improvement notice”.

**Changes to legislation:**

There are currently no known outstanding effects for the The Novel Foods Regulations (Northern Ireland) 2017, SCHEDULE 2.