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STATUTORY INSTRUMENTS

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**1989 No. 846**

**The Food (Northern Ireland) Order 1989**

**PART IV**

**PROCEDURE AND EVIDENCE**

*Legal proceedings and evidence*

**Evidence of analysis**

**54.**—(1) In any prosecution under this Order or any regulations made under it, the production by one of the parties of—

- (a) a document purporting to be a certificate of a public analyst in the form prescribed under Article 39(5); or
- (b) a document supplied to him by the other party as being a copy of such a certificate,

shall be sufficient evidence of the facts stated in the document, unless, where the document is of the kind described in sub-paragraph (a), the other party requires that the analyst shall be called as a witness.

(2) In any prosecution under this Order or any regulations made under it, if a defendant intends—

- (a) to produce a certificate of a public analyst; or
- (b) under paragraph (1) to require that a public analyst shall be called as a witness;

notice of that intention, together, in a case arising under sub-paragraph (a), with a copy of the certificate, shall be given to the other party at least three clear days before the date of the hearing, and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on such terms as it thinks proper.

(3) In paragraphs (1) and (2), references to a public analyst include—

- (a) references to a person approved by the Department under Article 39(4); and
- (b) references to a public analyst within the meaning of the Food and Drugs (Scotland) Act 1956(1) and the Food Act 1984(2).

(4) Regulations made under Article 6 or Article 9 may prescribe a method of analysis for the purpose of ascertaining the presence in, or absence from, any food of any substance specified in the regulations, or the quantity of any such substance which is present in any food.

(5) In any prosecution—

- (a) for a contravention of any regulations made under Article 6 or Article 9; or
- (b) for an offence under Article 4 or Article 8;

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in respect of any food alleged to contain, or not to contain, any substance specified in those regulations, or any particular quantity of such a substance, evidence of an analysis carried out by the method prescribed by those regulations shall be preferred to evidence of any other analysis or test.