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STATUTORY INSTRUMENTS

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**1991 No. 762**

**The Food Safety(Northern Ireland) Order 1991**

**PART II**

**GENERAL PROVISIONS AS TO FOOD**

*Food safety*

**Inspection and seizure of suspected food**

**8.**—(1) An authorised officer may at all reasonable times inspect any food intended for human consumption which—

- (a) has been sold or is offered or exposed for sale; or
- (b) is in the possession of, or has been deposited with or consigned to, any person for the purpose of sale or of preparation for sale;

and paragraphs (3) to (9) shall apply where, on such an inspection, it appears to the authorised officer that any food fails to comply with food safety requirements.

(2) The following provisions shall also apply where, otherwise than on such an inspection, it appears to an authorised officer that any food is likely to cause food poisoning or any disease communicable to human beings.

(3) 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- (a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it—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 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 sub-paragraph (a) shall be guilty of an offence.

(4) Where the authorised officer gives notice under paragraph (3)(a), he shall, as soon as is reasonably practicable and in any event before the expiration of 21 days from the date of the notice, determine whether or not he is satisfied that the food complies with food safety requirements 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.

(5) Where an authorised officer seizes and removes food under paragraph (3)(b) or (4)(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 Article 6 or 7 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 charged with an offence under that Article in relation to that food.
- (6) 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 food safety requirements, 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.
- (7) If a notice under paragraph (3)(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 shall compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.
- (8) Any disputed question as to the right to or the amount of any compensation payable under paragraph (7) shall be determined by a single arbitrator appointed, failing agreement between the parties, by the Head of the Department concerned; and the provisions of the Arbitration Act (Northern Ireland) 1937(1) shall apply accordingly.
- (9) In this Article—
- (a) any reference to an authorised officer includes a reference to a director of public health of a Health and Social Services Board;
  - (b) in paragraph (7) the reference to the district council or, as the case may be, the Department of Agriculture includes, in relation to a director of public health of a Health and Social Services Board, the Health and Social Services Board;
  - (c) “Health and Social Services Board” means a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(2).

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(1) 1937 c. 8 (N.I.)  
(2) 1972 NI 14