
STATUTORY RULES OF NORTHERN IRELAND

2019 No. 66

The Marketing of Bananas Regulations (Northern Ireland) 2019

PART 4

Controlled bananas and related powers and offences

Powers to control the movement of bananas

12.—(1) An authorised officer may serve a stop notice prohibiting the movement of any bananas if the authorised officer reasonably suspects that an offence under these Regulations is being or has been committed in respect of the bananas.

(2) A stop notice shall be served on the person appearing to the authorised officer to be in charge of the bananas to which the notice relates and shall—

- (a) specify the date, place and time of service of the notice;
- (b) identify the recipient of the notice;
- (c) state the bananas or lot of bananas in relation to which the notice has been served;
- (d) give the reason for the service of the notice;
- (e) confirm that the authorised officer has discussed with the person appearing to be in charge of the bananas the options for either—
 - (i) bringing the bananas into conformity with the banana marketing standards within a specified time; or
 - (ii) the appropriate disposal of the bananas within a specified time in such a manner that no offence will be committed under these Regulations in respect of them;
- (f) specify the location of the bananas;
- (g) state that the bananas may not be moved from that location without the written consent of an authorised officer;
- (h) specify the personal number assigned to the authorised officer and be stamped with authorised officer's official stamp.

(3) A stop notice shall inform the person on whom the notice is served of the right of review of the notice under paragraph (4) and how it may be exercised.

(4) A relevant person may request the Department to arrange a review of the decision to serve the stop notice in the manner provided for in paragraph (8) as soon as reasonably practicable, and in any event within the time limit specified in paragraph (5) or (7).

(5) The time limit for a person on whom the stop notice was served is 48 hours from service of the stop notice.

(6) Where the person on whom the notice is served is not the owner, or an agent or employee acting on behalf of the owner, the authorised officer must use best endeavours to identify such a person and bring the contents of the stop notice to that person's attention within 48 hours from service of the notice.

(7) The time limit for a person referred to in paragraph (6) is within 48 hours of the contents of the stop notice coming to that person's attention or within 96 hours from the time of service of the notice whichever is the sooner.

(8) A request under paragraph (4) shall be made to the Department to do so in person or by telephone (in both cases to be confirmed in writing as soon as reasonably practicable thereafter) or by e-mail at the contact details indicated in the notice.

(9) The review shall be determined by a person (unconnected with the original decision) appointed by the Department ("the appointed person") under arrangements maintained by it for the purpose of this regulation.

(10) The appointed person conducting the review may cancel the stop notice or confirm it, with or without modifications.

(11) The appointed person shall—

- (a) complete the review as soon as reasonably practicable and in any event within two working days of the request being made under paragraph (4); and
- (b) serve notice on the relevant person of the decision.

(12) A notice is not suspended pending a review unless the appointed person conducting the review decides otherwise.

(13) The appointed person's determination is final.

(14) In this regulation "relevant person" means the person on whom a stop notice has been served under paragraph (1), the owner of the bananas to which the notice relates or an agent or employee acting on behalf of the owner.

Commencement Information

I1 Reg. 12 in operation at 29.3.2019, see [reg. 1](#)

Power to affix a stop notice label

13.—(1) An authorised officer may affix to any controlled bananas, or to any container in which the controlled bananas are packed, a label warning that a stop notice has been served under regulation 12(1).

(2) A stop notice label shall be—

- (a) in the form set out in Part 3 of Schedule 2; and
- (b) completed in accordance with Part 4 of that Schedule.

Commencement Information

I2 Reg. 13 in operation at 29.3.2019, see [reg. 1](#)

Consents to the movement of controlled bananas

14.—(1) An authorised officer may, at any time, give consent to the movement of controlled bananas and to the withdrawal of the stop notice.

(2) An authorised officer shall, upon request in writing, give consent to withdraw the stop notice if the circumstances in paragraph (3) apply.

(3) The circumstances in which this paragraph applies are where—

- (a) the authorised officer is satisfied that no offence under these Regulations would be committed in respect of the bananas if they were marketed after preparation and packaging; or
 - (b) the authorised officer, or another authorised officer, has been given a written undertaking that the bananas will be marketed or disposed of in a specified manner and the authorised officer is satisfied that if the bananas are marketed or disposed of in that manner no offence under these Regulations will be committed in respect of them and the authorised officer has no reason to doubt that the terms of the undertaking will be met.
- (4) An authorised officer shall, upon request in writing, give consent to the movement of controlled bananas if the circumstances in paragraph (5) apply.
- (5) The circumstances in which this paragraph applies are where—
- (a) the authorised officer, or any other authorised officer, has been given a written undertaking that—
 - (i) the bananas will be moved to a place approved by an authorised officer;
 - (ii) at the approved place the steps required to ensure that the bananas may be marketed in compliance with the banana marketing standards and without an offence under these Regulations being committed in respect of them or will be disposed of in such a manner that no offence under these Regulations would be committed in respect of them will be taken; and
 - (iii) the bananas will not be moved from that place without the consent of an authorised officer; and
 - (b) the authorised officer has no reason to doubt that the person giving the undertaking will comply with it.
- (6) A consent given by an authorised officer under this regulation shall—
- (a) be in writing;
 - (b) identify the bananas or lot of bananas to which it relates; and
 - (c) where the consent is given under paragraph (4), state that the bananas continue to be controlled bananas.

Commencement Information

I3 Reg. 14 in operation at 29.3.2019, see [reg. 1](#)

Written undertakings

- 15.—**(1) An authorised officer may accept a written undertaking from a person who appears to the officer to be in control of bananas where the officer has—
- (a) inspected the bananas and the accompanying notices, documents or labels which purport to satisfy the requirements of the banana marketing standards and found them not to comply with those standards;
 - (b) discussed with the person the options for—
 - (i) bringing the bananas, accompanying documents or labels into conformity with the banana marketing standards within an agreed time; or
 - (ii) the appropriate sale or disposal of the bananas within an agreed time in such a manner that there shall be no contravention of these Regulations.
- (2) A written undertaking must—

- (a) specify the identity of the person giving the undertaking;
- (b) identify the bananas or lot of bananas which are the subject of the undertaking;
- (c) give details of the contravention of the banana marketing standards found by the authorised officer;
- (d) specify the action agreed to be taken by the person giving the undertaking;
- (e) specify the agreed date by which such action will be taken; and
- (f) be signed and dated by the person giving the undertaking and the authorised officer.

Commencement Information

I4 Reg. 15 in operation at 29.3.2019, see [reg. 1](#)

Offences relating to movement of controlled bananas

16.—(1) It is an offence for a person to—

- (a) to fail to comply with a stop notice, or cause or permit another person to do so, without, or otherwise than in accordance with, the consent of an authorised officer given under regulations 14(1), (2) and (4); or
- (b) to fail to comply with a written undertaking an authorised officer has accepted from that person under regulation 15(1).

Commencement Information

I5 Reg. 16 in operation at 29.3.2019, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Marketing of Bananas Regulations (Northern Ireland) 2019, PART 4.