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STATUTORY INSTRUMENTS

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**1989 No. 846**

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

**PART II**

**GENERAL PROVISIONS AS TO FOOD**

*Hygiene*

**Regulations as to food hygiene**

**15.**—(1) The Department may make such regulations as appear to it to be expedient for securing the observance of sanitary and cleanly conditions and practices in connection with—

- (a) the sale of food for human consumption; or
- (b) the preparation, transport, storage, packaging, wrapping, exposure for sale, service or delivery of food intended for sale or sold for human consumption;

or otherwise for the protection of the public health in connection with those matters.

(2) Without prejudice to the generality of paragraph (1), regulations made by the Department under this Article may make provision—

- (a) for imposing requirements to secure the prevention of the occurrence of disease through the contamination of food by persons engaged in a food business;
- (b) for imposing requirements as to the construction, layout, drainage, equipment, maintenance, cleanliness, ventilation, lighting, water supply, and use of premises in, at or from which food is sold, or offered, exposed, stored or prepared for sale, for human consumption (including any parts of such premises in which apparatus, equipment, containers or utensils are cleansed or in which refuse is disposed of or stored);
- (c) for imposing requirements as to the provision, maintenance and cleanliness of sanitary and washing facilities in connection with such premises, the disposal of refuse and the maintenance and cleanliness of apparatus, equipment, furnishings, containers or utensils used in such premises, and in particular for imposing requirements that every sanitary convenience situated in such premises shall be supplied with water through a suitable flushing appliance;
- (d) for prohibiting or regulating the use of any specified materials, or of materials of any specified class, in the manufacture of apparatus, equipment, containers or utensils designed for use in the preparation of food for human consumption, and the sale of apparatus, equipment, containers or utensils designed for such use and containing any specified materials or materials of any specified class;
- (e) for prohibiting spitting on premises where food is sold or offered, exposed, stored or prepared for sale for human consumption (including any parts of such premises in which apparatus, equipment, containers or utensils are cleansed);
- (f) for imposing requirements as to the clothing worn by persons in such premises;

- (g) for securing the inspection of animals intended for slaughter and of carcasses for the purpose of ascertaining whether meat intended for sale for human consumption is fit for human consumption, for securing the marking of such carcasses, and for prohibiting the sale of such meat where the animals or, as the case may be, the carcasses have not been so inspected;
  - (h) for requiring the staining or sterilisation in accordance with the regulations of meat which is unfit for human consumption, or which is derived from animals slaughtered in knackeries or from carcasses brought into knackeries or which, though not unfit for human consumption, is not intended for human consumption;
  - (i) for regulating generally the treatment and disposal of such meat and of any food unfit for human consumption;
  - (j) for prohibiting or regulating, or enabling district councils to prohibit or regulate, the sale for human consumption or the offer, exposure or distribution for sale for human consumption, of shell-fish taken from beds or other layings for the time being designated under the regulations.
- (3) In paragraph (2) “animals” includes poultry.
- (4) Without prejudice to the foregoing provisions of this Article or Article 72, any such regulations imposing requirements in respect of premises may—
- (a) impose responsibility for compliance with those requirements on the occupier of the premises and, in the case of requirements of a structural character, on any owner of the premises who either lets them for use for a purpose to which the regulations apply or permits them to be so used after notice from the district council;
  - (b) provide, subject to such limitations and safeguards as may be specified, for conferring, in relation to particular premises, exemptions from the operation of specified provisions contained in regulations made for the purposes of paragraph (2)(b) or (c) while there is in force a certificate of the district council to the effect that compliance with those provisions cannot reasonably be required with respect to the premises or any activities carried on in them.
- (5) If any person who has incurred, or is about to incur, expenditure in securing that the requirements of regulations made under this Article, being requirements of a structural character, are complied with in respect of any premises owned or occupied by him claims that the whole or any part of the expenditure ought to be borne by any other person having an interest in the premises, he may apply to the county court.
- (6) On an application under paragraph (5) the court may make such order concerning the expenditure or its apportionment as appears to the court, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be just and equitable; and any order made under this paragraph may direct that any such contract shall cease to have effect in so far as it is inconsistent with the terms of the order.
- (7) The Department may make regulations imposing, to such extent as it may think fit, in respect of vehicles, stalls, and places other than premises any requirement which could be imposed under the provisions of this Article in respect of premises.
- (8) The Department may take such steps as appear to it to be expedient for publishing codes of practice in connection with matters which may be made the subject of regulations under this Article, for the purpose of giving advice and guidance to persons responsible for compliance with such regulations.

### **Power of court to disqualify person for carrying on a food business**

16.—(1) The provisions of this Article shall have effect where a person is prosecuted by a district council for an offence under regulations made under Article 15 in respect of—

- (a) any premises used for the purposes of a food business; or
- (b) any food business carried on at those premises.

(2) If the district council has, not less than twenty-one days before the date of the hearing, given the person against whom the prosecution is brought notice of its intention to apply for an order under this Article to be made against him, and if the person is convicted of the offence, the court, having regard to—

- (a) the gravity of the offence; or
- (b) the unsatisfactory nature of the premises, where the offence is committed in respect of premises; or
- (c) any offences against regulations made under Article 15 of which the person has previously been convicted;

may, on the application of the district council, make an order—

- (i) disqualifying the person for using those premises for the purposes of a food business; or
- (ii) disqualifying the person for using those premises for the purposes of any food business specified in the order.

(3) Subject to paragraph (5), an order made under this Article shall remain in force—

- (a) where it is made on the ground of the unsuitability of premises because the requirements of regulations made under Article 15 have not been complied with, until it is revoked by the court;
- (b) where it is made on any other ground, for such period not exceeding two years as may be specified in the order.

(4) A person shall be guilty of an offence if—

- (a) while he is subject to an order of the kind referred to in paragraph (2)(i), he uses the premises specified in the order for the purposes of a food business, or participates in the management of a food business carried on at the premises so specified;
- (b) while he is subject to an order of the kind referred to in paragraph (2)(ii), he uses the premises specified in the order for the purposes of any food business specified in the order, or participates in the management of any such business carried on at the premises so specified.

(5) A person subject to an order made under this Article may apply to the court to revoke the order; but where such an application is refused by the court, a further application under this paragraph shall not be entertained if made within three months after the date of the refusal.

(6) On any such application the court may, if it thinks proper having regard to all the circumstances of the case, including in particular—

- (a) the person's conduct subsequent to the conviction, and
- (b) any improvement in the state of any premises specified in the order,

grant the application.

(7) Where a conviction for an offence against any regulation made under Article 15 is quashed, the court quashing the conviction shall also revoke any order made under this Article in consequence of that conviction.

(8) Without prejudice to the provisions of paragraph (7), a person aggrieved by an order made under this Article may appeal against that order to the county court.

(9) Nothing in this Article shall apply to—

- (a) any premises used for the purposes of a business in respect of which a licence is in force under the Milk (Northern Ireland) Order 1983<sup>(1)</sup>; or
- (b) any premises in respect of which a licence is in force under the Slaughter-houses Act (Northern Ireland) 1953<sup>(2)</sup>.

**Byelaws as to handling and sale of food**

17.—(1) A district council may make byelaws for securing the observance of sanitary and cleanly conditions and practices—

- (a) in connection with the handling, wrapping and delivery of food sold or intended for sale for human consumption, and
- (b) in connection with the sale or exposure for sale in the open air of food intended for human consumption.

(2) In so far as any byelaws made under this Order conflict with regulations made under this Part, the regulations shall prevail.

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(1) 1983 NI 2  
(2) 1953 c. 21 (N.I.)