
STATUTORY INSTRUMENTS

1989 No. 846 (N.I. 6)

NORTHERN IRELAND

The Food (Northern Ireland) Order 1989

Made - - - - *16th May 1989*

Coming into Operation *17th August 1989*

At the Court at Buckingham Palace, the 16th day of May 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974⁽¹⁾ and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Food (Northern Ireland) Order 1989.

(2) This Order shall come into operation on the expiration of three months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954⁽²⁾ shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

(1) 1974 c. 28

(2) 1954 c. 33 (N.I.)

“advertisement” includes any notice, circular, label, wrapper, invoice or other document, and any public announcement made orally or by any means of producing or transmitting light or sound;

“analysis” includes micro-biological assay but no other form of biological assay;

“animal” does not include bird or fish;

“article” does not include a live animal or bird;

“authorised officer” has the meaning assigned to that expression by Article 35;

“business” includes the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not, and any undertaking or activity carried on by a district council or other public authority;

“container” includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

“cream” means that part of milk rich in fat which has been separated by skimming or otherwise;

“the Department” means the Department of Health and Social Services;

“drug” includes medicine for internal or external use;

“food” includes drink, chewing gum, and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or all such products, but does not include—

- (a) water, live animals or birds;
- (b) fodder or feeding stuffs for animals, birds or fish; or
- (c) articles or substances used only as drugs;

“food business” means any business for the purposes of which food intended for sale, or sold, for human consumption, is prepared, transported, stored, packaged, wrapped, exposed for sale, served or delivered;

“human consumption” includes use in the preparation of food for human consumption;

“ice-cream” includes any similar commodity;

“knackery” has the meaning assigned to that expression by Article 14(2);

“milk” includes cream and separated milk, but does not include dried milk or condensed milk;

“officer” includes servant;

“premises” means a building or part of a building, and any forecourt, yard or place of storage used in connection with a building or part of a building;

“preparation”, in relation to food, includes manufacture and any form of treatment, and “preparation for sale” includes packaging;

“prescribed” means prescribed by regulations made by the Department;

“public analyst” has the meaning assigned to that expression by Article 36;

“purveyor”, in relation to milk, includes any person who sells milk, whether wholesale or by retail;

“sampling officer” has the meaning assigned to that expression by Article 38;

“sanitary convenience” means a closet, privy or urinal;

“separated”, in relation to milk, includes skimmed;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(3);

“substance” includes a liquid.

(3) For the purposes of this Order, other than Articles 16, 18 and 19(1)(b),—

- (a) the supply of food for human consumption, otherwise than by sale, at, in or from any place where food is supplied in the course of a business, shall be deemed to be a sale of that food, and references to purchasers shall be construed accordingly;
- (b) where in connection with any business in the course of which food is supplied the place where the food is served is different from the place where the food is consumed, both those places shall be deemed to be places in which food is sold.

(4) For the purposes of section 42(2) of the Northern Ireland Constitution Act 1973⁽⁴⁾ (validity of Acts of the Parliament of Northern Ireland), provisions of this Order which re-enact provisions of an Act of the Parliament of Northern Ireland shall be deemed to be provisions of such an Act.

(5) Provisions of this Order which re-enact provisions of orders made under any statutory provision shall have no greater effect by virtue of their re-enactment.

PART II

GENERAL PROVISIONS AS TO FOOD

Composition and labelling of food

Offences as to preparation and sale of injurious foods

3.—(1) A person who—

- (a) adds any substance to food,
- (b) uses any substance as an ingredient in the preparation of food,
- (c) abstracts any constituent from food, or
- (d) subjects food to any other process or treatment,

so as (in any such case) to render the food injurious to health, with intent that the food shall be sold for human consumption in that state, shall be guilty of an offence.

(2) A person who—

- (a) sells for human consumption, or
- (b) offers, exposes or advertises for sale for human consumption or has in his possession for the purpose of sale for human consumption,

any food rendered injurious to health by means of any operation described in paragraph (1) shall, subject to paragraphs (3) and (4), be guilty of an offence.

(3) In any prosecution under this Article for an offence consisting of the advertisement for sale of any food, it shall be a defence for the person charged to prove that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business, and did not himself make, or cause to be made, any material alteration in the substance of that advertisement.

(4) In determining for the purposes of this Order whether an article of food is injurious to health, regard shall be had not only to the probable effect of that article on the health of a person consuming it, but also to the probable cumulative effect of articles of substantially the same composition on the health of a person consuming such articles in ordinary quantities.

General protection for purchasers of food

4.—(1) A person who sells to the prejudice of the purchaser any food which is not—

- (a) of the nature, or
- (b) of the substance, or
- (c) of the quality,

of the food demanded by the purchaser, shall, subject to Article 5, be guilty of an offence.

(2) In paragraph (1) the reference to sale shall be construed as a reference to sale for human consumption; and in any prosecution under that paragraph it shall not be a defence to allege that the purchaser was not prejudiced because he bought for analysis or examination.

Defences available in proceedings under Article 4

5.—(1) In any prosecution under Article 4 for an offence consisting of the sale of food—

- (a) to which any substance has been added, or
- (b) in the preparation of which any substance has been used as an ingredient, or
- (c) from which any constituent has been abstracted, or
- (d) which has been subjected to any other process or treatment,

other than food thereby rendered injurious to health, it shall be a defence to prove—

- (i) that the operation in question was not carried out fraudulently; and
- (ii) that the article was sold with a notice attached to it of adequate size, distinctly and legibly printed and conspicuously visible, stating explicitly the nature of the operation, or was sold in a wrapper or container displaying such a notice.

(2) In any prosecution under Article 4 for an offence alleged to have been committed by the sale of an article containing extraneous matter, it shall be a defence for the person charged to prove that the presence of that matter was an unavoidable consequence of the process of collection or preparation.

(3) In any prosecution under Article 4 for an offence alleged to have been committed by the sale of diluted spirit, being whisky, brandy, rum or gin, it shall be a defence for the person charged to prove—

- (a) that the spirit in question was diluted with water only; and
- (b) that its alcoholic strength by volume was not lower than 37.2 per cent.

Regulations as to composition of food, etc.

6.—(1) Subject to paragraph (4), the Department may, so far as it appears to the Department to be necessary or expedient in the interests of the public health or otherwise for the protection of the public or to be called for by any Community obligation, make regulations for any of the following purposes—

- (a) for requiring, prohibiting or regulating the addition of any specified substance, or any substance of any specified class, to food intended for sale for human consumption or any class of such food, or the use of any such substance as an ingredient in the preparation of such food, and generally for regulating the composition of such food;
- (b) for requiring, prohibiting or regulating the use of any process or treatment in the preparation of any food intended for sale for human consumption, or any class of such food;
- (c) for prohibiting or regulating the sale, possession for sale, offer or exposure for sale, consignment or delivery of food which does not comply with any of the regulations, or

in relation to which an offence under the regulations has been committed or would have been committed if any relevant act or omission had taken place in Northern Ireland;

- (d) for prohibiting or regulating the sale, possession for sale, or offer, exposure or advertisement for sale, of any specified substance, or of any substance of any specified class, with a view to its use in the preparation of food for human consumption, and the possession of any such substance for use in the preparation of food intended for sale for human consumption.

(2) In the exercise of the functions conferred by this Article the Department shall have regard to the desirability of restricting, so far as practicable, the use of substances of no nutritional value as foods or as ingredients of foods.

(3) Regulations made under this Article may apply to cream and separated milk, and to any food containing milk, but otherwise shall not apply to milk.

(4) Regulations under this Article which apply to cream or ice-cream shall be made by the Department with the concurrence of the Department of Agriculture.

(5) Regulations made under this Article may provide that, where any food is certified by a public analyst as being food to which the regulations apply so far as they are made under paragraph (1)(c), that food may be treated for the purposes of Article 11 as being unfit for human consumption.

(6) Nothing in any regulations made under this Article shall be taken as prejudicing the generality of the powers conferred by Article 11.

Power of Department to obtain particulars of ingredients

7.—(1) For the purpose of enabling the Department to exercise the functions conferred by Article 6, the Department may by order require every person who, at the date of the order or at any subsequent time, carries on a business which includes the production or use of substances of any class specified in the order to furnish to the Department, within such time as may be so specified, such particulars as may be so specified of the composition and use of any such substance sold in the course of that business for use in the preparation of food for human consumption or used for that purpose in the course of that business.

(2) Without prejudice to the generality of paragraph (1), an order made under that paragraph may require the following particulars to be furnished in respect of any substance—

- (a) particulars of the composition and chemical formula of the substance;
- (b) particulars of the manner in which the substance is used or proposed to be used in the preparation of food;
- (c) particulars of any investigations or inquiries carried out by or to the knowledge of the person carrying on the business in question, for the purpose of determining whether and to what extent the substance, or any product formed when the substance is used as mentioned above, is injurious to, or in any other way affects, health;
- (d) particulars of any investigations or inquiries carried out by or to the knowledge of the person carrying on the business in question for the purpose of determining the cumulative effect on the health of a person consuming such substance in ordinary quantities.

(3) Particulars furnished in accordance with an order under this Article, or information relating to any individual business obtained by means of such particulars, shall not, without the previous consent in writing of the person carrying on the business in question, be disclosed except—

- (a) in accordance with directions of the Department, so far as may be necessary for the purposes of Article 6 or of any corresponding enactment for the time being in force in England and Wales or Scotland; or

- (b) for the purposes of any prosecution for an offence under the order or of any report of such prosecution;
- and no such disclosure shall be regarded as publication of the information.
- (4) A person who discloses any particulars or information in contravention of paragraph (3) shall be guilty of an offence.
 - (5) An order made under this Article shall be subject to negative resolution.

Labels and advertisements describing food incorrectly

8.—(1) A person who gives with any food sold by him, or displays with any food exposed by him for sale, a label, whether attached to or printed on the wrapper or container or not, which—

- (a) falsely describes that food; or
- (b) is calculated to mislead as to its nature, substance or quality;

shall be guilty of an offence, unless he proves that he did not know, and could not with reasonable diligence have ascertained, that the label was of such a character as mentioned above.

(2) Subject to paragraph (4), a person who publishes, or is a party to the publication of, an advertisement (not being such a label so given or displayed by him as described in paragraph (1)) which—

- (a) falsely describes any food; or
- (b) is calculated to mislead as to its nature, substance or quality;

shall be guilty of an offence; and in any prosecution under this paragraph against the manufacturer or producer of the food, it shall rest on the accused to prove that he did not publish, and was not a party to the publication of, the advertisement.

(3) For the purposes of this Article, a label or advertisement which is calculated to mislead as to the nutritional or dietary value of any food is calculated to mislead as to the quality of the food.

- (4) In any prosecution under paragraph (2) it shall be a defence for the accused to prove either—
 - (a) that he did not know, and could not with reasonable diligence have ascertained, that the advertisement was of such a character as is described in that paragraph; or
 - (b) that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business and did not himself make, or cause to be made, any material alteration in the substance of that advertisement.

(5) In any prosecution for an offence under this Article the fact that a label or advertisement in respect of which the offence is alleged to have been committed contained an accurate statement of the composition of the food shall not preclude the court from finding that the offence was committed.

(6) In this Article references to sale shall be construed as references to sale for human consumption.

Regulations as to labelling and description of food

9.—(1) Without prejudice to the provisions of Article 8 the Department may, subject to paragraph (4), make regulations for imposing requirements as to, and otherwise regulating—

- (a) the labelling, marking or advertising of food intended for sale for human consumption, and
- (b) the descriptions which may be applied to such food.

(2) Regulations made under this Article—

- (a) shall not make provision in relation to the labelling and marking of food in respect to weight, measure and number;
 - (b) may make provision for any purpose authorised by Article 6(1)(c) in the case of regulations under that Article.
- (3) Regulations made under this Article may apply to cream and separated milk, and to any food containing milk, but shall not otherwise apply to milk.
- (4) Regulations under this Article which apply to cream or ice-cream shall be made by the Department with the concurrence of the Department of Agriculture.

Food unfit for human consumption

Prohibition on sale, etc., of food unfit for human consumption

- 10.**—(1) Subject to the provisions of this Article, any person who—
- (a) sells, or offers or exposes for sale, or has in his possession for the purpose of sale or of preparation for sale; or
 - (b) deposits with, or consigns to, any person for the purpose of sale or of preparation for sale;
- any food intended for, but unfit for, human consumption shall be guilty of an offence.
- (2) Subject to paragraph (3), where food in respect of which an offence under paragraph (1)(a) has been committed was sold to the offender by some other person, that person also shall be guilty of an offence.
- (3) Where a person is charged with an offence under paragraph (1)(b) or under paragraph (2) it shall be a defence for him to prove—
- (a) that he had no reason to suppose that the person, with whom he deposited, or to whom he consigned or sold, the food in question, intended the food for human consumption, and that he gave notice to that person that the food was unfit for such consumption; or
 - (b) that, at the time when he delivered or dispatched it to that person, it was fit for human consumption; or
 - (c) that, at that time he did not know, and could not with reasonable diligence have ascertained, that it was unfit for human consumption.

Examination and seizure of suspected food

- 11.**—(1) An authorised officer of a district council may—
- (a) at all reasonable times examine any food intended for human consumption which has been sold, or is offered or exposed for sale, or 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
 - (b) if it appears to him to be unfit for human consumption, seize it and remove it in order to have it dealt with by a justice of the peace.
- (2) An officer who seizes any food under paragraph (1) shall inform the person in whose possession the food was found of his intention to have it dealt with by a justice of the peace, and any person who under Article 10 might be liable to a prosecution in respect of the food shall, if he attends before the justice upon the application for its condemnation, be entitled to be heard and call witnesses.
- (3) If it appears to a justice of the peace that any food brought before him, whether seized under the provisions of this Article or liable to be so seized, is unfit for human consumption, he shall condemn it and order it to be destroyed or to be so disposed of as to prevent it from being used for human consumption.

(4) Any order made under paragraph (3) shall be sufficient evidence of the unfitness for human consumption of the food in question in any prosecution under this Order.

(5) If a justice of the peace refuses to condemn any food seized under this Article by an authorised officer of a district council, the council shall compensate the owner of the food for any depreciation in its value resulting from its seizure and removal.

Food offered as prizes, etc.

12.—(1) Articles 10 and 11 shall apply—

- (a) in relation to any food which is intended for human consumption and is offered as a prize or reward or given away in connection with any entertainment to which the public are admitted, whether on payment of money or not, as if that food were, or had been, exposed for sale by each person concerned in the organisation of the entertainment;
- (b) in relation to any food which is intended for human consumption and is offered as a prize or reward or given away for the purpose of advertisement, or in furtherance of any trade or business, as if that food were, or had been, exposed for sale by the person offering or giving away the food;
- (c) in relation to any food which is intended for human consumption and is exposed or deposited in any premises for the purpose of being so offered or given away as mentioned above, as if that food were, or had been, exposed for sale by the occupier of the premises.

(2) In this Article the expression “entertainment” includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

Power to examine food in course of transit

13.—(1) If an authorised officer of a district council has reason to suspect that any vehicle or container contains any food—

- (a) which is intended for sale for human consumption, or
- (b) which is in the course of delivery after sale for human consumption,

he may examine the contents of the vehicle or of the container.

(2) For the purpose of any examination under paragraph (1) the officer may, if necessary, detain the vehicle or the container.

(3) If the officer finds any food which appears to him to be intended for, but unfit for, human consumption, he may deal with it as food falling under Article 11(1) and paragraphs (2) to (5) of that Article shall apply accordingly.

(4) Where the duties of an officer of customs and excise with respect to any goods have not been wholly discharged, nothing in this Article shall authorise the examination of those goods without his consent.

Products of knackeries

14.—(1) A person who sells, or offers or exposes for sale, or has in his possession for the purpose of sale or of preparation for sale, for human consumption—

- (a) any part of, or product derived wholly or partly from, an animal which has been slaughtered in a knackery or of which the carcase has been brought into a knackery;
- (b) any part brought into a knackery of the carcase of an animal, or any product derived wholly or partly from that part,

shall be guilty of an offence.

(2) In this Article “knackery” means any premises used in connection with the business of slaughtering animals the flesh of which is not intended for human consumption, or of flaying, cutting up or processing the carcasses of such animals.

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⁽⁵⁾; or
- (b) any premises in respect of which a licence is in force under the Slaughter-houses Act (Northern Ireland) 1953⁽⁶⁾.

⁽⁵⁾ 1983 NI 2

⁽⁶⁾ 1953 c. 21 (N.I.)

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.

Registration and licensing

Registration of manufacturers of, and traders in, ice-cream

18.—(1) A person shall not use any premises for—

- (a) the manufacture of ice-cream for the purpose of sale for human consumption;
- (b) the storage of ice-cream intended for sale for human consumption;
- (c) the sale of ice-cream for human consumption;

unless those premises are registered for that purpose by the district council.

(2) A person who uses any premises in contravention of paragraph (1) shall be guilty of an offence.

(3) An application for registration under this Article in respect of any premises shall—

- (a) be made by the person who proposes to use the premises;
- (b) contain such information in relation to those premises as the district council may require;
- (c) where the application is in respect of premises not yet erected, or of premises to be reconstructed, be accompanied by plans showing the proposed works.

(4) Subject to the provisions of this Article, the district council shall, on an application for registration under this Article being duly made by a person in respect of any premises—

- (a) register those premises; and
- (b) issue to that person, upon payment of a fee of 10p or such other amount as may be prescribed, a certificate of registration.

(5) Where an application is made for registration under this Article, or where premises are registered under this Article, and it appears to the district council—

- (a) that the requirements of regulations in force under Article 15 are not complied with in connection with the business carried on at the registered premises, or in connection with the registered premises, or, as the case may be, in connection with the premises specified in the application; or
- (b) that the premises or any part of them are otherwise unsuitable (having regard to considerations of hygiene and in particular to the situation, construction or condition of the premises, or to any activities carried on in them) for use for the purpose or purposes specified in the application, or for which they are used, as the case may be;

the council may refuse or, as the case may be, may cancel or vary the registration.

(6) A district council shall not refuse, cancel or vary any registration under this Article unless—

- (a) the council has served on the applicant or the occupier of the premises a notice of its proposal so to do for reasons specified in the notice, stating the place and time, not being

less than twenty-one days after the date of the service of the notice, at which the council will take the matter into consideration, and informing him that he may appear (and be represented, if he so desires, by counsel or solicitor) before the council, with any witnesses he desires to call, at that place and time to show cause why the council should not proceed with the proposal; and

(b) the applicant or occupier fails to show cause to the satisfaction of the council.

(7) If—

(a) the district council refuses, cancels or varies a registration under this Article; and

(b) the applicant or the occupier requests the council for a statement of the reasons for its decision;

the council shall, within forty-eight hours of receiving the request, give the applicant or occupier such a statement, and that statement shall contain a reference to the rights of appeal conferred by paragraph (8).

(8) A person aggrieved by a decision of a district council under this Article to refuse, cancel or vary any registration may appeal to a court of summary jurisdiction.

(9) A register kept by a district council under this Article shall be open to public inspection free of charge at all reasonable hours.

(10) The occupier of premises registered under this Article shall keep the certificate of registration fixed in a conspicuous place in those premises.

(11) Upon any change in the occupation of premises registered under this Article the incoming occupier shall, within fourteen days of that change, give notice of that change to the district council.

(12) Any person who fails to comply with the provisions of paragraph (10) or paragraph (11) shall be guilty of an offence.

(13) Nothing in Article 16 shall apply in relation to any premises registered under this Article.

Extension to other food businesses of provisions relating to registration, etc.

19.—(1) The Department may—

(a) by regulations prescribe that persons intending to use any premises for the purposes of any food business specified in those regulations shall give notice to the district council of that intention;

(b) by order apply, with or without modifications, the provisions of Article 18 to any food business specified in the order.

(2) An order made under paragraph (1)(b) shall be subject to affirmative resolution.

Licensing of vehicles, etc.

20.—(1) Subject to the provisions of this Article, the Department may make regulations providing—

(a) for the issue by district councils of licences in respect of the use of vehicles, stalls or places other than premises, for the preparation, exposure or offer for sale, or sale, of food for human consumption; and

(b) for prohibiting the use for any such purpose of any such vehicle, stall or place except in accordance with a licence issued under the regulations.

(2) Regulations made under this Article may provide for the refusal or cancellation of a licence under the regulations, either wholly or in respect of a part of the business for which the licence is applied for or is held—

- (a) where the requirements of regulations in force under Article 15 are not complied with in relation to that business; or
- (b) where the applicant or holder is unable, or has failed, to comply, in relation to that business, with any byelaws in force under Article 17;

and such regulations shall make provision for—

- (i) affording to persons aggrieved by any such refusal or cancellation an opportunity to make representations to the district council;
- (ii) giving to such persons a right of appeal from the decision of the district council to a court of summary jurisdiction.

Control of food premises

Interpretation (Articles 22 to 26)

21.—(1) In Articles 22 to 26—

“closure order” means an order made under Article 22(1);

“emergency order” means an order made under Article 23(1);

“food” and “food business” have the meanings assigned to them by the Food Hygiene (General) Regulations (Northern Ireland) 1964(7);

“food hygiene regulations” means regulations made under Article 15;

“interested person” has the meaning given in Article 24(2);

“owner” means, in relation to premises which are not a stall or vehicle, any person who receives or is entitled to receive, whether on his own account or as agent or trustee for another, a rack rent, or who, if the premises were let at a rack rent, would so receive or be entitled to receive that rent;

“premises” includes any stall, vehicle or place to which food hygiene regulations apply.

(2) In paragraph (1), in the definition of “owner”, “rack rent” means a rent which is not less than two-thirds of the net annual value shown in the valuation list for the purposes of the Rates (Northern Ireland) Order 1977(8).

Closure of premises

22.—(1) Where a person is convicted of an offence against the food hygiene regulations and the offence includes the carrying on of a food business at any insanitary premises or at any premises the condition, situation, or construction of which is such that food is exposed to the risk of contamination, if the court is satisfied that—

- (a) the premises continue or are likely to continue to be used for the purposes of a food business; and
- (b) the condition, situation or construction of the premises continues or is likely to continue to be such that the carrying on of a food business at those premises would be dangerous to health,

the court may, on the application of a district council and subject to paragraph (2), make an order prohibiting the use of those premises for the purposes of a food business and specifying the measures which the court considers necessary to comply with the food hygiene regulations; and the order shall

(7) S.R. & O. (N.I.) 1964 No. 129

(8) 1977 NI 28

continue in effect until the district council certifies under paragraph (4) that the specified measures have been carried out.

(2) A closure order shall not be made unless the district council has, not less than fourteen days before the hearing of the application, given notice in writing of its intention to apply for such an order to—

- (a) the person accused of the offence; and
- (b) the owner of the premises (unless the district council is unable after reasonable inquiry to ascertain his identity), if he is not the person accused of the offence.

(3) In any notice in writing under paragraph (2) the district council shall specify the measures which, in its opinion, should be taken to remove any danger to health.

(4) Any person who wishes to carry on a food business at any premises with respect to which a closure order is in force may apply to the district council which, if satisfied that the measures specified by the court have been carried out, shall issue to the applicant a certificate to that effect within fourteen days.

(5) A person who contravenes a closure order shall be guilty of an offence.

Emergency order for closure of premises

23.—(1) Where a person is prosecuted by a district council for an offence described in Article 22(1), and the district council applies for an order under this Article, the court may, if satisfied—

- (a) by evidence tendered by the district council, and
- (b) after hearing any evidence submitted by the accused and the owner of the premises if he is not also the accused,

that the use of the premises for the purposes of a food business involves an imminent risk of danger to health, make an order prohibiting, either absolutely or subject to conditions, the use of the premises for those purposes; and the order shall continue in effect until the determination of the proceedings relating to the offence or the issue of a certificate by the district council under paragraph (5), whichever is the sooner.

(2) An emergency order shall not be made unless the district council has, not less than three days before the hearing of the application, given notice in writing of its intention to apply for such an order to—

- (a) the accused, and
- (b) the owner of the premises (unless the district council is unable after reasonable inquiry to ascertain his identity), if he is not the accused.

(3) A notice under paragraph (2) shall specify the measures which the district council considers should be taken to remove the risk of danger to health.

(4) The district council shall serve a copy of an emergency order as soon as practicable after the order has been made on the persons referred to in paragraph (2).

(5) Any person who wishes to carry on a food business at any premises with respect to which an emergency order is in force, may apply to the district council which, if satisfied that there is no longer any risk of danger to health, shall issue to the applicant a certificate to that effect within fourteen days.

(6) A person who contravenes an emergency order shall be guilty of an offence.

Compensation

24.—(1) If at the trial of a person for an offence described in Article 22 (1), the court, on the application of an interested person,—

(a) determines that at the date of any emergency order the use of the premises did not involve imminent risk of danger to health; and

(b) is satisfied that loss has been occasioned by the emergency order,

the court may order the district council to pay to that person compensation of such amount as the court thinks proper.

(2) In paragraph (1) and in Article 25(3), “interested person” means—

- (a) the person accused of an offence described in Article 22(1);
- (b) the owner of the premises;
- (c) any person (not falling within sub-paragraph (a) or (b)) who at the time when the emergency order was made was carrying on a food business at those premises.

Appeals

25.—(1) Where an application for a closure order is granted,—

- (a) the person convicted of an offence described in Article 22(1); and
- (b) the owner of the premises, if he is not that person,

may appeal to the county court.

(2) Where an application for a closure order is refused, the district council may appeal to the county court.

(3) Where an application for an order under Article 24(1) for the payment of compensation is granted or refused—

- (a) the district council; or
- (b) any interested person who applied for the payment of compensation under that Article in respect of that order,

may appeal to the county court.

(4) Where a person applies for a certificate under Article 22(4) or 23(5) and the district council refuses or fails to give it, the applicant may appeal to a court of summary jurisdiction.

(5) On an appeal under paragraph (4), the court may, if satisfied that it is proper to do so, direct the district council to give the appropriate certificate.

Saving for certain licensed uses of premises

26. Neither a closure order nor an emergency order shall have effect in respect of the use of any premises to the extent that there is a licence in force under—

- (a) the Milk (Northern Ireland) Order 1983⁽⁹⁾; or
- (b) the Slaughter-houses Act (Northern Ireland) 1953⁽¹⁰⁾,

in respect of that use of the premises.

Special provisions as to certain foods

Regulations as to milk

27.—(1) The Department may, to prevent danger to health from the supply or sale of infected milk, make such regulations as appear to the Department to be expedient—

(9) 1983 NI 2

(10) 1953 c. 21 (N.I.)

- (a) for requiring the treatment before it is supplied or sold of milk which is infected or suspected of being infected;
 - (b) for prohibiting the supply or sale of milk which is infected or suspected of being infected;
 - (c) for prohibiting the use of milk which is infected or suspected of being infected in the manufacture of products for sale for human consumption;
 - (d) for authorising the payment by district councils of compensation to any person for damage or loss sustained by him by reason of any prohibition or restriction imposed by regulations made under this Article on the supply, sale or use of milk which is infected or suspected of being infected.
- (2) The Department may, where no express provision is made by this Order, make regulations for prohibiting or restricting—
- (a) the addition of any substance to milk, or the abstraction from milk of fat or any other constituent;
 - (b) the supply or sale of milk to which any such addition, or from which any such abstraction, has been made, or which has been otherwise artificially treated.
- (3) Regulations made under paragraph (2) shall not apply in relation to cream in so far as they are made for any purpose for which regulations relating to cream may be made under Article 6.
- (4) The Department may, with the approval of the Department of Finance and Personnel, repay out of moneys appropriated by Measure such part, not exceeding three-quarters, as the Department may with such approval determine of any sums paid by a district council by way of compensation to any person for any damage or loss sustained by him by reason of any prohibition or restriction imposed by regulations made under paragraph (1) on the sale, supply or use of milk which is infected or suspected of being infected.
- (5) In this Article “milk” means milk intended for supply or sale or supplied or sold for human consumption, or intended for manufacture into products for sale for human consumption.

Prohibition of sale of milk from diseased cows

28.—(1) A person who—

- (a) sells, or offers or exposes for sale, or has in his possession for the purpose of sale, for human consumption; or
- (b) uses in the manufacture of products for sale for human consumption;

the milk of any cow which to his knowledge has given tuberculous milk, or is suffering from emaciation due to tuberculosis, or from tuberculosis of the udder or any other disease of cows to which this Article applies, shall be guilty of an offence.

(2) In any prosecution under this Article, the defendant shall be deemed to have known that a cow had given tuberculous milk, or was so suffering as mentioned in paragraph (1), if he could with ordinary care have ascertained the fact.

(3) The diseases of cows to which this Article applies are those listed in Schedule 1 and any other disease to which the provisions of this Article are extended by regulations made by the Department for that purpose.

Certain additions not to be made to milk and certain liquids not to be sold as milk

29.—(1) Subject to paragraph (3), a person who—

- (a) adds any water or colouring matter, or any dried or condensed milk or liquid reconstituted from it, to milk intended for sale for human consumption; or

- (b) adds any separated milk, or mixture of cream and separated milk, to unseparated milk intended for sale for human consumption; or
- (c) sells, or offers or exposes for sale, or has in his possession for the purpose of sale, for human consumption, any milk to which any addition has been made in contravention of the provisions of this paragraph,

shall be guilty of an offence.

(2) A person who sells, or offers or exposes for sale, or has in his possession for the purpose of sale, as milk any liquid in the making of which any separated milk or any dried or condensed milk has been used, shall be guilty of an offence.

(3) The prohibitions contained in paragraph (1)(a) and (c), in so far as they relate to the adding of any water to milk or the sale, offering or exposure for sale or possession of milk to which water has been added shall not apply in any case where water is added to milk in the course of any process of direct heat treatment by steam authorised under the Marketing of Milk Products Act (Northern Ireland) 1958⁽¹¹⁾ or the Milk (Northern Ireland) Order 1983⁽¹²⁾ (whichever is applicable), where the process is conducted in accordance with regulations made in that behalf by the Department of Agriculture under that Act or, as the case may be, that Order.

(4) For the purposes of paragraph (1)(c), a person shall be deemed to retain the possession of milk which is deposited in any place for collection until it is actually collected; but nothing in this paragraph shall be taken as prejudicing the defence available under Article 41(10) or, as the case may be, under Article 42(8), to a person charged with an offence in respect of a sample of milk taken after the milk has left his possession.

Cream substitutes

30.—(1) Subject to the provisions of this Article, a person who sells, or offers or exposes for sale, for human consumption—

- (a) any substance which resembles cream in appearance, but is not cream; or
- (b) any article of food containing such a substance;

under a description or designation which includes the word “cream” (whether or not as part of a composite word), shall be guilty of an offence.

(2) Paragraph (1) shall not apply to the sale, or offer or exposure for sale—

- (a) of any substance being reconstituted or imitation cream as defined by this Article or of any article containing such a substance, under a description or designation which identifies the substance as such, or
- (b) of any substance under a description or designation which indicates that the substance is not for use as, or as a substitute for, cream.

(3) For the purposes of this Article, the description or designation under which a substance or article is sold, or offered or exposed for sale, shall be deemed to include the word “cream” if it includes any other word (composite or otherwise) which is calculated to lead a purchaser to suppose that the substance is or, as the case may be, the article contains either cream or a substance for use as cream.

(4) In this Article—

“reconstituted cream” means a substance which, not being cream, resembles cream in appearance and contains no ingredient not derived from milk, except—

- (a) water; or

(11) 1958 c. 31 (N.I.)

(12) 1983 NI 2

- (b) ingredients (not added fraudulently to increase bulk, weight or measure, or conceal inferior quality) which may lawfully be contained in a substance sold for human consumption as cream or butter;

“imitation cream” means a substance which, not being cream or reconstituted cream, resembles cream in appearance and is produced by emulsifying edible oils or fats with water, either by themselves, or with other substances not prohibited by regulations made for the purposes of this Article under Article 6, nor added in quantities so prohibited.

Sign to be displayed on premises, etc., where horseflesh is sold for human consumption

31.—(1) A person who sells, or offers or exposes for sale, or has in his possession for the purpose of sale, any horseflesh for human consumption elsewhere than in premises or in a stall, vehicle or place other than premises over or on which there is at all times displayed in a conspicuous position a notice in legible letters not less than four inches in height stating that horseflesh is sold there, shall be guilty of an offence.

(2) A person who supplies horseflesh for human consumption to a purchaser who has not asked to be supplied with horseflesh, or who has asked to be supplied with some compound article of food not ordinarily made of horseflesh, shall be guilty of an offence.

(3) If any horseflesh is exposed for sale elsewhere than in premises or in a stall, vehicle or place other than premises distinguished in accordance with paragraph (1) without anything to show that it was not intended for sale for human consumption, the onus of proving that it was not so intended shall rest upon the person exposing it for sale.

(4) In this Article—

“horseflesh” means the flesh of horses, asses and mules, and includes any such flesh whether cooked or uncooked and whether alone, or accompanied by, or mixed with, any other substance; and

“flesh” includes any part of any such animal.

Cold stores

Power to provide cold stores

32. A district council may provide a cold store for the storage and preservation of meat and other articles of food, and may make charges in respect of the use of any such store.

Food poisoning

Provisions as to suspected food

33.—(1) If a chief administrative medical officer of a Health and Social Services Board has reasonable ground for suspecting that any food is likely to cause food poisoning, he may give notice to the person in charge of that food that, until his investigations are completed—

- (a) the food, or any specified portion of it, is not to be used for human consumption, and
(b) either is not to be removed, or is not to be removed except to some place specified in the notice.

(2) A person who uses or removes any food in contravention of the requirements of a notice given under paragraph (1) shall be guilty of an offence.

(3) If, as a result of his investigations, the chief administrative medical officer is satisfied that the food in question, or any portion of it, is likely to cause food poisoning, he may deal with it

as food falling within paragraph (1) of Article 11 and paragraphs (2) and (3) of that Article shall apply accordingly; but, if he is satisfied that it may safely be used for human consumption he shall forthwith withdraw his notice.

(4) If a notice given under paragraph (1) is withdrawn by the chief administrative medical officer, or if the justice of the peace before whom any food is brought under this Article refuses to condemn it, the Health and Social Services Board shall compensate the owner of the food to which the notice related for any depreciation in its value resulting from the action taken by the chief administrative medical officer.

(5) For the purposes of paragraph (4) the value of any food shall not be assessed at a sum exceeding the cost incurred by the owner in making or purchasing it.

(6) Any function of the chief administrative medical officer of a Health and Social Services Board under this Article may be exercised by such other medical officer of the board as the chief administrative medical officer may authorise in writing in that behalf.

(7) In this Article—

“food poisoning” includes any disease transmissible by food;

“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⁽¹³⁾.

PART III

ADMINISTRATION AND ENFORCEMENT

Administration

Authorities responsible for enforcement

34.—(1) It shall be the duty of every district council to enforce and execute in its district the provisions of any Article of this Order or of any regulations made under this Order, with respect to which the duty is not expressly, or by necessary implication, imposed on some other authority.

(2) It shall be the duty of the Department to enforce and execute the provisions of any order made under Article 7.

Meaning of “authorised officer”

35.—(1) Subject to the provisions of this Article, the expression “authorised officer” means an officer of a district council authorised by that council in writing, either generally or specially, to act in matters of any specified kind or in any specified matter.

(2) Any environmental health officer appointed by a district council in exercise of its powers under section 41 of the Local Government Act (Northern Ireland) 1972⁽¹⁴⁾ shall be deemed to be an authorised officer of that council for all purposes of this Order.

(3) A member of the Royal College of Veterinary Surgeons employed by a district council for the purpose of inspection of food shall be deemed to be an authorised officer of the council for the purpose of the examination and seizure of meat under the provisions of Part II relating to food unfit for human consumption.

(4) An officer of a district council shall not be authorised to act under this Order in relation to the examination and seizure of meat unless he is—

⁽¹³⁾ 1972 NI 14

⁽¹⁴⁾ 1972 c. 9 (N.I.)

- (a) a person deemed to be an authorised officer by virtue of paragraph (2) or paragraph (3); or
- (b) a person having such qualifications as may be prescribed.

Sampling and analysis

Public analysts

36.—(1) Every district council shall appoint in accordance with the provisions of this Article one or more than one person (in this Order referred to as “public analysts”) to be analysts of food and drugs within the district of the council.

(2) A person shall not be appointed a public analyst unless he possesses—

- (a) such qualifications as may be prescribed; or
- (b) such other qualifications as the Department may approve.

(3) A person who is engaged directly or indirectly in any trade or business connected with the sale of food or drugs in any district shall not be appointed public analyst for that district.

(4) A district council shall pay to a public analyst such remuneration as may be agreed upon by the council and the analyst, and that remuneration may be expressed to be payable—

- (a) in addition to any fees received by the analyst under this Order; or
- (b) on condition that any fees received by the analyst under this Order are paid over by him to the council.

(5) A district council which appoints only one public analyst may appoint also a deputy to act during any vacancy in the office of public analyst, or during the absence or incapacity of the holder of the office, and the provisions of paragraphs (2) to (4) shall apply in relation to a deputy public analyst as they apply in relation to a public analyst.

Facilities for examination of food and drugs

37. A district council may provide facilities for bacteriological and other examinations of samples of food and drugs.

Powers of sampling

38.—(1) An authorised officer of a district council may exercise such powers of procuring samples for analysis, or for bacteriological or other examination, as are conferred upon him by this Article, and any such officer is in this Order referred to as a “sampling officer”.

(2) A sampling officer may purchase samples of any food or of any substance capable of being used in the preparation of food.

(3) Subject to the provisions of this Article, a sampling officer may take a sample of any food, or of any substance capable of being used in the preparation of food, which—

- (a) appears to him to be intended for sale for human consumption; or
- (b) appears to him to have been sold for human consumption; or
- (c) is found by him on or in any premises, stall, vehicle or place other than premises which he is authorised to enter for the purposes of the execution of this Order.

(4) A sampling officer shall not, without the consent of the purchaser,—

- (a) take a sample of any food or substance (other than milk) which appears to him to have been sold by retail, either while the food or substance is in the course of delivery to the purchaser, or at any time after delivery to the purchaser;

(b) take a sample of milk which appears to him to have been sold by retail at any time after the milk has been delivered to the purchaser.

(5) Any power of an authorised officer to procure samples of milk may be exercised at a place outside the district of the council by which that authorised officer was appointed, if the district council for the district within which the place is situated has consented to samples of milk being procured within its district by officers of the first-mentioned council.

(6) For the purposes of this Order any sample procured in accordance with paragraph (5) shall be deemed to have been procured within the district for which the officer in question acts.

(7) A district council shall not unreasonably withhold its consent for the purposes of paragraph (5), and any question as to the reasonableness of withholding that consent shall be referred to and determined by the Department.

Right to have samples analysed

39.—(1) If a sampling officer who has procured a sample of any food or substance considers that it should be analysed, he shall submit it to be analysed by the public analyst for the district in which the sample was, or is deemed to have been, procured.

(2) A person, other than a sampling officer, who has purchased any food, or any substance capable of being used in the preparation of food, may submit a sample of it to be analysed by the public analyst for the district in which the purchase was made.

(3) The public analyst shall analyse as soon as practicable any sample submitted to him in pursuance of this Article but may, where the sample is submitted by a person other than an officer of the district council, demand in advance the payment of such fee as may be fixed by the council.

(4) If—

(a) the office of public analyst for a district is vacant; or

(b) the public analyst determines that he is for any reason unable to perform an effective analysis;

the sample shall be submitted or, as the case may be, sent by the public analyst, to such person as the Department may approve, and that person, if he consents to analyse the sample, shall do so upon payment to him of such sum as may be agreed upon.

(5) A public analyst, or a person approved by the Department for the purposes of paragraph (4), who has analysed a sample shall give to the person who submitted the sample a certificate, in such form as may be prescribed, specifying the result of the analysis.

(6) A certificate given under paragraph (5) shall be signed by the public analyst or person approved by the Department for the purposes of paragraph (4), but the analysis may be made by any person acting under the direction of that analyst or approved person.

(7) Where a sample procured by a sampling officer has been analysed by a public analyst or a person approved by the Department for the purposes of paragraph (4), any person to whom a part of the sample was given in accordance with provisions of this Order shall be entitled, on payment of a fee of 5p to the district council by whose officer the sample was procured, to be supplied with a copy of the certificate given under paragraph (5).

Disposal of samples taken for analysis

40.—(1) A sampling officer who procures a sample of any food or substance for the purpose of analysis by a public analyst shall forthwith divide it into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall deal with the parts in accordance with the following provisions of this Article.

(2) Subject to the provisions of this Article, the sampling officer shall dispose of one part of the sample as follows, that is to say—

- (a) where the sample was purchased by the sampling officer, he shall give the part to the vendor;
- (b) where the sample was of goods consigned from outside Northern Ireland and was taken by the sampling officer before delivery to the consignee, he shall give the part to the consignee;
- (c) where the sample was taken by the sampling officer with the consent of a purchaser by retail, not being a sample taken as mentioned in sub-paragraph (b), he shall give the part to the vendor;
- (d) where the sample was of milk taken by the sampling officer otherwise than as mentioned in sub-paragraphs (a) to (c), he shall give the part to the person who caused the milk to be placed in the container from which the sample was taken;
- (e) where the sample was taken in transit by the sampling officer, otherwise than as mentioned in sub-paragraphs (a) to (d), he shall give the part to the consignor;
- (f) where sub-paragraphs (a) to (e) do not apply, the sampling officer shall give the part to the person appearing to be the owner of the food or substance;

and the sampling officer shall inform the person to whom the part is given that the sample was purchased or taken for the purpose of analysis by a public analyst.

(3) Of the remaining parts of the sample, the sampling officer shall, unless he decides not to have an analysis made, submit one for analysis in accordance with Article 39, and retain the other for future comparison.

(4) If it appears to a sampling officer that any food or substance of which he has procured a sample for the purpose of analysis by a public analyst was manufactured or put into its wrapper or container by a person (not being a person to whom one part of the sample is required to be given under this Article) having his name and an address in the United Kingdom displayed on the wrapper or container, the officer shall, unless he decides not to have an analysis made, within three days of procuring the sample send to that person a notice informing him—

- (a) that the sample has been procured by the officer; and
- (b) where the sample was taken or, as the case may be, from whom it was purchased.

(5) In relation to a sample purchased from an automatic machine, paragraph (2)(a) shall have effect as if for the reference to the vendor there were substituted a reference—

- (a) if the name and address (being an address in Northern Ireland) of a person stated to be the proprietor of the machine appears on that machine, to that person;
- (b) in any other case, to the occupier of the premises on which the machine stands or to which it is affixed.

(6) Any part of a sample which under this Article is to be given to any person may be given either by delivering it to him or to his agent or by sending it to him by post in a registered packet or by the recorded delivery service.

(7) The provisions of paragraphs (1), (2), (3), (5) and (6) shall apply to the purchase of samples by any person who is neither a sampling officer nor a person having the powers of a sampling officer as they apply in relation to the purchase of samples by a sampling officer; and references to a sampling officer shall be construed accordingly.

Special provisions as to sampling of milk otherwise than by sampling officers

41.—(1) Where a sample of milk is procured, otherwise than by a sampling officer, from a purveyor of milk, that purveyor shall, if required to do so by the person by whom the sample was procured, state the name and address of the seller or consignor from whom he received the milk.

(2) Within sixty hours after the sample was procured from the purveyor he may, subject to paragraphs (3) and (4), serve on the district council within whose district the sample was procured a notice stating—

- (a) the name and address of the seller or consignor from whom he received the milk; and
- (b) the time and place of delivery to himself of milk from a corresponding milking;

and requesting the council to take immediate steps to procure, as soon as practicable, a sample of milk from a corresponding milking in the course of transit or delivery to himself from the seller or consignor.

(3) If a sample of milk from a corresponding milking—

- (a) has been procured since the procuring of the sample from the purveyor; or
- (b) has been procured within twenty-four hours prior to the sample being procured from the purveyor;

it shall not be necessary for the district council to procure another sample in accordance with the notice served under paragraph (2).

(4) The purveyor shall not have the right to require that a sample of milk from a corresponding milking shall be procured if the milk from which the sample was procured from the purveyor was taken from a mixture of milk produced on more than one farm.

(5) If—

- (a) the purveyor has served on the district council a notice under paragraph (2); and
- (b) the council has, in a case not falling within paragraph (3) or paragraph (4), omitted to procure in accordance with paragraph (2) a sample of milk from the seller or consignor in the course of transit or delivery;

a prosecution under this Order shall not be brought against the purveyor in respect of the sample procured from him.

(6) Any sample procured in accordance with paragraph (2) in the course of transit or delivery shall be submitted for analysis to the person to whom the sample procured from the purveyor is or was submitted.

(7) If a prosecution is brought against the purveyor, a copy of the certificate of the result of the analysis of every sample procured in accordance with paragraph (2) in the course of transit or delivery shall be furnished to him, and every such certificate or copy shall, subject to the provisions of Article 54, be admissible as evidence on any question whether the milk sold by the purveyor was sold by the purveyor in the same state as it was when he purchased it.

(8) The district council within whose district the sample was procured from the purveyor may, instead of, or in addition to, bringing a prosecution against the purveyor, bring a prosecution against the seller or consignor.

(9) If a sample of milk of cows kept on any premises is procured in course of transit or delivery from those premises, the occupier of those premises may, within sixty hours after the sample was procured, serve on the district council by whose officer the sample was procured a notice requesting the council to take immediate steps to procure, as soon as practicable, a sample of milk from a corresponding milking of the cows and thereupon—

- (a) paragraphs (3) to (7) shall, so far as applicable, apply with any necessary modifications; and

- (b) the person procuring the sample of milk from a corresponding milking of the cows shall be empowered to take any such steps at the premises on which the cows are kept as may be necessary to satisfy him that the sample is a fair sample of the milk of the cows when properly and fully milked.

(10) It shall be a defence for a person charged with an offence under this Order, or under regulations made under this Order, in respect of a sample of milk taken, otherwise than by a sampling officer, after the milk had left the possession of the person charged to prove that the container from which the sample was taken was effectively closed and sealed at the time when it left his possession, but had been opened before the person by whom the sample was taken had access to it.

Special provisions as to sampling of milk by sampling officers

42.—(1) Where a sample of milk is procured by a sampling officer from a purveyor of milk, that purveyor shall, if required to do so by the sampling officer, state—

- (a) the name and address of the seller or consignor from whom he received the milk;
- (b) the time and place of delivery to him by the seller or consignor of milk from a corresponding milking.

(2) Subject to paragraph (3), the district council by whose officer the sample was procured shall not bring a prosecution under this Order against the purveyor in respect of the sample procured from him unless the council has within—

- (a) twenty-four hours prior to the sample being procured from the purveyor; or
- (b) one hundred and twenty hours after the sample was procured from the purveyor;

procured a sample of milk from a corresponding milking in the course of transit or delivery to the purveyor from the seller or consignor.

(3) It shall not be necessary for the district council to procure a sample of milk from a corresponding milking if the milk from which the sample was procured from the purveyor was taken from a mixture of milk produced on more than one farm.

(4) Any sample procured in accordance with paragraph (2) in the course of transit or delivery shall be submitted for analysis to the person to whom the sample procured from the purveyor is or was submitted.

(5) If a prosecution is brought against the purveyor, a copy of the certificate of the result of the analysis of every sample procured in accordance with paragraph (2) in the course of transit or delivery shall be furnished to him, and every such certificate or copy shall, subject to the provisions of Article 54, be admissible as evidence on any question whether the milk sold by the purveyor was sold by the purveyor in the same state as it was when he purchased it.

(6) The district council by whose officer the sample was procured from the purveyor may, instead of, or in addition to, bringing a prosecution against the purveyor, bring a prosecution against the seller or consignor.

(7) If a sample of milk of cows kept on any premises is procured in course of transit or delivery from those premises, the occupier of those premises may, within sixty hours after the sample was procured, serve on the district council by whose officer the sample was procured a notice requesting the council to take immediate steps to procure, as soon as practicable, a sample of milk from a corresponding milking of the cows and thereupon—

- (a) paragraphs (2) to (5) shall, so far as applicable, apply with any necessary modifications; and
- (b) the sampling officer procuring the sample of milk from a corresponding milking of the cows shall be empowered to take any such steps at the premises on which the cows are

kept as may be necessary to satisfy him that the sample is a fair sample of the milk of the cows when properly and fully milked.

(8) It shall be a defence for a person charged with an offence under this Order, or under regulations made under this Order, in respect of a sample of milk taken by a sampling officer after the milk had left the possession of the person charged to prove that the container from which the sample was taken was effectively closed and sealed at the time when it left his possession, but had been opened before the sampling officer had access to it.

Power of Department to have foods analysed and examined

43.—(1) In relation to any matter appearing to the Department to affect the general interests of consumers, the Department may direct an officer of the Department authorised in writing to procure samples of any food specified in that authorisation, and thereupon the officer shall have all the powers of a sampling officer, and this Order shall apply as if he were a sampling officer.

(2) In relation to any matter appearing to the Department of Agriculture to affect the general interests of consumers of cream or ice-cream, that Department may exercise the powers conferred upon the Department by paragraph (1), and the provisions of this Order shall have effect accordingly.

(3) Any fee payable for the analysis of a sample procured in accordance with the provisions of this Article shall be payable by the Department or, as the case may be, the Department of Agriculture, out of moneys appropriated by Measure.

Provision for cases in which division into parts is impracticable

44. Where any person procures a sample consisting of a food or substance contained in unopened containers, and the division into parts of the food or substance contained in those containers—

- (a) is not reasonably practicable; or
- (b) might affect the composition or impede the proper analysis of the contents;

the provisions of Article 40 with respect to the division of samples into parts shall be deemed to be complied with if the person procuring the sample divides the containers into three lots and deals with each lot as if it were a part in the manner provided by that Article; and references in this Order to a part of a sample shall be construed accordingly.

Examination by district councils of food not for sale

45.—(1) A district council may, at the request of a person who has in his possession any food which has not been sold, and which is not intended for sale, arrange to have that food examined on payment by that person of such fee, if any, as may be fixed by that council.

(2) Subject to the provisions of Article 33, where any food examined in pursuance of paragraph (1) is found to be unfit for human consumption, the district council may, with the consent of the person referred to in that paragraph, arrange for the disposal of the food.

Quarterly reports of analysts

46.—(1) Every public analyst shall, as soon as may be after the last day of March, the last day of June, the last day of September and the last day of December in every year, report to the district council by whom he was appointed the number of articles which have been analysed by him or on his behalf in his capacity as public analyst for the district of that council during the preceding quarter of a year, and the result of each analysis.

(2) Every district council shall transmit to the Department, at such times as the Department may direct, a copy of each quarterly report received by it from a public analyst, together with details of any action taken in each case.

Entry, obstruction, etc.

Power to enter premises

47.—(1) Subject to the provisions of this Article, an authorised officer of a district council shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

- (a) for the purpose of ascertaining whether there is or has been on, or in connection with, the premises any contravention of the provisions of this Order or of any regulations or byelaws made under it, being provisions which the council is required or empowered to enforce; and
- (b) generally for the purpose of the performance by the council of its functions under this Order, or any such regulations or byelaws.

(2) Admission to any premises used only as a private dwelling-house shall not be demanded under paragraph (1) as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(3) If a justice of the peace, on sworn information in writing,—

- (a) is satisfied that there is reasonable ground for entry into any premises for any purpose mentioned in paragraph (1); and
- (b) is also satisfied either—
 - (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier; or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or that the occupier is temporarily absent;

the justice may by warrant signed by him authorise the council by any authorised officer to enter the premises, if need be by force.

(4) An authorised officer entering any premises by virtue of this Article, or of a warrant issued under it, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against trespassers as he found them.

(5) Every warrant granted under this Article shall continue in force for a period of one month.

(6) If any person who, in compliance with the provisions of this Article, or of any warrant issued under it, is admitted into a factory or workplace, discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, he shall, unless the disclosure was made in the performance of his duty, be guilty of an offence.

(7) Nothing in this Article shall authorise any person, except with the permission of the Department of Agriculture under the Diseases of Animals (Northern Ireland) Order 1981⁽¹⁵⁾, to enter any cowshed or other place in which an animal affected, or suspected of being affected, with any disease to which that Order applies is kept.

Power to enter vehicles, etc.

48.—(1) An authorised officer of a district council shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any vehicle, stall or place other than premises, for any purpose for which he is authorised under Article 47 to enter premises.

(15) 1981 NI 22

(2) Paragraphs (3) to (5), and paragraph (7), of Article 47 shall apply in relation to any vehicle, stall or place other than premises which may be entered under the powers conferred by paragraph (1) as they apply in relation to premises, and as if any reference to the occupier of premises were a reference to the person in charge of the vehicle, stall or place.

Powers of entry of Departments' officers

49. An officer of the Department or of the Department of Agriculture authorised in writing shall, for the purpose of ascertaining whether there is or has been any contravention of the provisions of this Order or of any regulation or order made under it, being provisions which that Department is required or empowered to enforce, have the like powers of entry as are exercisable under Article 47 or Article 48 by an authorised officer of a district council; and in relation to such an authorised officer of the Department or of the Department of Agriculture, the reference in Article 47(3) to the council shall be construed as a reference to the Department or, as the case may be, the Department of Agriculture.

Persons obstructing execution of Order

50.—(1) A person who wilfully obstructs any person acting in the execution of this Order, or of any regulation, byelaw, order or warrant made or issued under this Order, shall be guilty of an offence.

(2) If—

- (a) a sampling officer applies to purchase any food or substance exposed for sale, or on sale by retail, and tenders the price for the quantity which he requires as a sample, and the person exposing the food or substance for sale, or having it for sale, refuses to sell to the officer the quantity which he requires as a sample; or
- (b) the seller or consignor of any article or substance of which the officer has power to take a sample, or a person having the charge for the time being of such an article or substance, refuses to allow the officer to take the quantity which he requires as a sample;

then the person so refusing shall, subject to paragraph (3), be treated for the purposes of paragraph (1) as having wilfully obstructed the officer.

(3) Where any food or substance is exposed for sale in an unopened container duly labelled, a person shall not be required to sell that food or substance except in the unopened container in which it is contained.

(4) A person who—

- (a) fails to give to any person acting in the execution of this Order, or of any regulation, byelaw, order or warrant made or issued under this Order, any assistance which that person may reasonably request him to give, or any information which that person is expressly authorised by this Order to call for or may reasonably require, or
- (b) when required to give any such information, knowingly makes any misstatement in respect of it,

shall, subject to paragraph (5), be guilty of an offence.

(5) Nothing in paragraph (4) shall be construed as requiring a person to answer any question or give any information, if so to do might incriminate him.

PART IV

PROCEDURE AND EVIDENCE

Legal proceedings and evidence

Offences

51.—(1) A person guilty of an offence under Article 7(4) shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both, and
- (b) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or to both.

(2) A person guilty of an offence under Article 18(12) shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(3) A person guilty of an offence under Article 22(5), 23(6), 33(2), 50(1) or 50(4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person guilty of an offence under Article 47(6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding three months or to both.

(5) A person guilty of an offence under this Order, other than the offences mentioned in paragraphs (1) to (4), shall be liable—

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both, and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(6) An offence under—

- (a) a regulation made under this Order, other than an offence which by virtue of the regulations is punishable on conviction on indictment or on summary conviction; and
- (b) an order made under Article 7,

shall be punishable on summary conviction only.

Prosecutions

52.—(1) A prosecution for an offence under this Order or regulations made under it which is punishable on conviction on indictment or on summary conviction shall not be begun after the expiration of—

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the complainant,

whichever is the earlier.

(2) Where a sample has been procured under this Order, a prosecution in respect of the article or substance sampled shall not be begun—

- (a) where the sample was of milk, after the expiration of the period of twenty-eight days beginning with the date on which the sample was procured;
- (b) where the sample was not of milk, after the expiration of the period of two months beginning with the date on which the sample was procured;

unless the justice of the peace before whom the complaint is made, on being satisfied on oath that having regard to the circumstances of the particular case it was not practicable to make the complaint at an earlier date, gives a certificate to that effect.

(3) Where a certificate issued under paragraph (2) relates to a prosecution in respect of a sample of milk, that prosecution shall not in any case be begun after the expiration of the period of forty-two days beginning with the date on which the sample was procured.

(4) Where a sample has been procured under this Order, any prosecution in respect of the article or substance sampled shall, subject to paragraphs (5) and (6), be brought before a court having jurisdiction in the place where the sample was procured.

(5) Where a sample procured within the district of one district council is for the purposes of this Order deemed to have been procured within the district of another, a prosecution may be brought either before the court having jurisdiction in any part of the district within which the sample was procured, or before a court having jurisdiction in any part of the district within which the sample is deemed to have been procured.

(6) Where an article or a substance sampled under this Order was sold and actually delivered to the purchaser, a prosecution may be brought before a court having jurisdiction at the place of delivery.

(7) Any prosecution under this Order or any regulations made under it in respect of an article or substance which has been sampled shall not be heard or determined earlier than fourteen days after the date of service of the summons, and in any such proceedings a copy of—

- (a) any certificate of analysis obtained on behalf of the prosecutor; and
- (b) any certificate given by a justice of the peace under paragraph (2);

shall be served with the summons.

(8) In any prosecution under this Order or any regulations made under it, where a sample has been procured in such circumstances that its division into parts is required by this Order, the part of the sample retained by the person who procured it shall be produced at the hearing.

(9) Notwithstanding paragraph (1), a person is not liable to be prosecuted for an offence under this Order or regulations made under it which was committed before 6th January 1987.

Institution of proceedings by the Department

53.—(1) Without prejudice to the provisions of this Order relating to its enforcement, the Department may, where it is of opinion that the general interests of consumers are affected, prosecute for offences under Article 3, 4 or 8, and for offences under any regulations made under Articles 6 and 9.

(2) Without prejudice to the provisions of this Order relating to its enforcement, the Department of Agriculture may, where it is of opinion that the general interests of consumers of cream or ice-cream are affected, prosecute for offences under any regulations made under Articles 6 and 9, so far as those regulations relate to cream or ice-cream.

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⁽¹⁶⁾ and the Food Act 1984⁽¹⁷⁾.

(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;

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.

Presumptions

55.—(1) For the purposes of this Order and any regulations or byelaws made under it—

(a) any article commonly used for human consumption shall, if sold or offered, exposed or kept for sale, be presumed, until the contrary is proved, to have been sold, or, as the case may be to have been intended for sale, for human consumption;

(b) any article commonly used for human consumption which is found on premises or on any vehicle, stall or place other than premises used for the preparation, storage, or sale of that article shall be presumed, until the contrary is proved, to be intended for sale for human consumption;

(c) any article commonly used for the manufacture of products for human consumption which is found on premises or on any vehicle, stall or place other than premises used for the preparation, storage, or sale of those products shall be presumed, until the contrary is proved, to be intended for manufacturing products for sale for human consumption;

(d) any substance capable of being used in the composition or preparation of any article commonly used for human consumption which is found on premises or on any vehicle, stall or place other than premises on which that article is prepared shall, until the contrary is proved, be presumed to be intended for such use.

(2) The Department may make regulations for determining what deficiency in any of the normal constituents of milk, or what proportion of water, in a sample shall for the purposes of this Order raise a presumption, until the contrary is proved, that the article sampled is not genuine milk.

⁽¹⁶⁾ 1956 c. 30

⁽¹⁷⁾ 1984 c. 30

Power of court to require analysis by Government Chemist

56.—(1) The court before which any prosecution is brought under this Order or any regulations made under it may, if the court thinks fit, and upon the request of either party shall, cause the part of any sample produced before the court under Article 52(8) to be sent to the Government Chemist, who shall—

- (a) make an analysis, and
- (b) transmit to the court a certificate of its result,

and the costs of the analysis shall be paid by the complainant or the defendant as the court may order.

(2) If, in a case where an appeal is brought, action has not been taken under paragraph (1), the provisions of that paragraph shall apply also in relation to the court by which the appeal is heard.

(3) Any certificate of the results of an analysis transmitted by the Government Chemist under this Article shall be signed by or on behalf of the Government Chemist, but the analysis may be made by any person acting under the direction of the person by whom the certificate is signed.

(4) Any certificate of the results of an analysis transmitted by the Government Chemist under this Article shall be evidence of the facts stated in it unless any party to the prosecution requires that the person by whom it is signed shall be called as a witness.

Contravention due to default of some other person

57.—(1) Where a contravention of any provision of this Order or of any regulation, order or byelaw made under it, for which any person is liable to a penalty was due to an act or default of any other person, then, whether or not a prosecution is brought against the first-mentioned person, that other person may be charged with and convicted of the contravention and shall be liable on conviction to the same punishment as might have been imposed on the first-mentioned person if he had been convicted of the contravention.

(2) Where a person who is charged with a contravention of this Order, or of any regulation, order or byelaw made under it, proves to the satisfaction of the court that he has used all due diligence to secure that the provision in question was complied with and that the contravention was due to the act or default of some other person, the first-mentioned person shall be acquitted of the contravention.

Conditions under which warranty may be pleaded as defence

58.—(1) Subject to the provisions of this Article, in any prosecution for an offence under this Order or any regulations made under it, being an offence consisting of selling, or offering, exposing or advertising for sale, or having in possession for the purpose of sale, any article or substance, it shall be a defence for the defendant to prove—

- (a) that he purchased it as being an article or substance which could lawfully be sold or otherwise dealt with as mentioned above, or, as the case may be, could lawfully be so sold or dealt with under the name or description or for the purpose under or for which he sold or dealt with it, and with a written warranty to that effect; and
- (b) that he had no reason to believe at the time of the commission of the alleged offence that it was otherwise; and
- (c) that it was then in the same state as when he purchased it.

(2) A warranty shall be a defence in a prosecution under this Order or any regulations made under it only if—

- (a) the defendant—
 - (i) has, within seven days, or such longer period as the court may allow, of the service of the summons, sent to the prosecutor a copy of the warranty with a notice stating

that he intends to rely on it and specifying the name and address of the person from whom he received it; and

(ii) has also sent a like notice of his intention to that person; and

(b) where the warranty was given by a person resident outside the United Kingdom the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in the warranty; and

(c) where the prosecution is in respect of a sample of milk procured from him otherwise than by a sampling officer, the defendant either—

(i) has within sixty hours after the sample was procured served such a notice as is mentioned in Article 41(2); or

(ii) not having served such a notice, proves that he had reasonable cause to believe that such a notice would have been of no effect by reason of the fact that the milk in question was a mixture of milk produced on more than one farm.

(3) Where the defendant is a servant of the person who purchased the article or substance under a warranty, he shall be entitled to rely on the provisions of this Article in the same way as his employer would have been entitled to do if he had been the defendant.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(5) For the purposes of this Article and Article 59, a name or description entered in an invoice shall be deemed to be a written warranty that the article or substance to which the entry refers can be sold or otherwise dealt with under that name or description by any person without contravening any of the provisions of this Order or of regulations made under it.

Offences in relation to warranties and certificates of analysis

59.—(1) A defendant who in any prosecution under this Order or any regulations made under it wilfully applies to any article or substance a warranty or certificate of analysis given in relation to any other article or substance shall be guilty of an offence.

(2) A person who, in respect of any article or substance sold by him, being an article or substance in respect of which a warranty might be pleaded under Article 58, gives to the purchaser a false warranty in writing, shall be guilty of an offence, unless he proves that when he gave the warranty he had reason to believe that the statements or descriptions contained in the warranty were accurate.

(3) Where the defendant in a prosecution under this Order or any regulations made under it relies successfully on a warranty given to him or to his employer, any prosecution under paragraph (2) in respect of the warranty may be brought either—

(a) before a court having jurisdiction in the place where a sample of the article or substance to which the warranty relates was procured, or

(b) before a court having jurisdiction in the place where the warranty was given.

Compensation

Disputes as to compensation under Part II

60.—(1) Where by Part II, except Article 24, provision is made for the payment of compensation to any person, any dispute arising as to the fact of damage or loss, or as to the amount of compensation, shall, subject to paragraph (2), be determined by a single arbitrator appointed by

agreement between the parties, or, in default of agreement, by the head of the Department; and the provisions of the Arbitration Act (Northern Ireland) 1937(18) shall apply accordingly.

(2) If the compensation claimed does not exceed—

- (a) £50, all questions as to the fact of damage or loss, liability to pay compensation and the amount of compensation may on the application of either party be determined by, and any compensation may be recovered before, a court of summary jurisdiction;
- (b) £300, all questions referred to in sub-paragraph (a) may on the application of either party be determined by, and any compensation may be recovered before, a county court.

Appeals against decisions of district councils

Right to carry on business pending appeal

61.—(1) Where—

- (a) a decision of a district council under this Order or under any regulations made under it, refusing, cancelling, suspending, or revoking, registration or a licence; or
- (b) a decision of a court of summary jurisdiction on appeal against any such decision;

makes it unlawful for a person—

- (i) to carry on any business which he, or his immediate predecessor in the business, was lawfully carrying on at the date when the decision of the council was given; or
- (ii) to use any premises for any purpose for which he, or his immediate predecessor in the business, was lawfully using those premises at the date when the decision of the council was given;

that person may carry on that business and use those premises for that purpose until the time for appealing has expired, and, if an appeal is lodged, until the appeal has been disposed of or abandoned or has failed for want of prosecution.

(2) Paragraph (1) shall apply also where an order of a court made under Article 16 makes it unlawful for a person to use any premises for the purpose of a business carried on at those premises immediately before the making of that order.

Continuation of licences

Temporary continuance of licence on death

62. Where a person who holds a licence under any regulations made under this Order dies, the licence shall, unless previously revoked or cancelled, enure for the benefit of his personal representative, or of his widow or any other member of his family, until the expiration of—

- (a) two months from his death; or
- (b) such longer period as the licensing authority may allow.

PART V

MISCELLANEOUS AND GENERAL

Application of this Order

Application to Crown

63.—(1) The Secretary of State may by order provide for the application to the Crown of such of the provisions of this Order and of any regulations or order made under this Order as may be specified in the order, with such exceptions, adaptations and modifications as may be so specified.

(2) Without prejudice to the generality of paragraph (1), an order made under this Article may make special provision for the enforcement of any provisions applied by the order, and where any such provision imposes a liability on a person by reason that he is—

- (a) the owner or occupier of premises; or
- (b) the owner of a business; or
- (c) the principal on whose behalf any transaction is carried out;

the order may make provision for determining, where the premises are occupied or owned, or the business is owned, by the Crown, or the transaction is carried out on behalf of the Crown, the person who is to be treated as so liable.

(3) An order made under this Article shall be subject to negative resolution.

Application of Order for purposes of importation orders and regulations

64. The provisions of Schedule 2 shall apply for the purposes of the enforcement and execution of any order or regulation made under the Food Act 1984⁽¹⁹⁾, and applying to Northern Ireland.

Provisions relating to district councils

Notices, etc., to be in writing; forms of notices, etc.

65.—(1) All notices, consents and other documents authorised or required by or under this Order to be given by a district council, and all notices and applications authorised or required by or under this Order to be made to, or to any officer of, a district council, shall be in writing.

(2) The form of any notice, certificate or other document to be used for any of the purposes of this Order shall be such as may be prescribed.

Proof of resolutions, etc.

66. In any proceedings under this Order or any regulations made under it a document purporting to be certified by the clerk of a district council as a copy of—

- (a) a resolution passed or order made by that council on a specified date; or
- (b) the appointment of, or any authorisation given to, an officer of that council on a specified date;

shall be evidence that that resolution, order, appointment or authorisation was duly passed, made or given by the council on that date.

(19) 1984 c. 30

Protection for officers acting in good faith

67.—(1) An officer of a district council shall not be personally liable in respect of any act done by him in the execution or purported execution of this Order and within the scope of his employment, if he did that act in the honest belief that his duty under this Order required or entitled him to do it.

(2) Nothing in paragraph (1) shall be construed as relieving a district council from any liability in respect of acts of their officers.

(3) Where—

- (a) an action has been brought against an officer of a district council in respect of an act done by him in execution or purported execution of this Order; and
- (b) the circumstances are such that he is not legally entitled to require the council to indemnify him;

the council may, nevertheless, indemnify him against the whole or a part of any damages and costs which he may have been ordered to pay or may have incurred, if it is satisfied that he honestly believed that—

- (i) the act complained of was within the scope of his employment; and
- (ii) his duty under the Order required or entitled him to do it.

(4) For the purposes of this Article—

- (a) a public analyst appointed by a district council, whether or not he is employed full-time; and
- (b) a person approved by the Department for the purposes of Article 39(4);

shall be treated as being an officer of the relevant district council.

Default of district councils

68.—(1) If the Department, after communication with a district council, is of opinion that the council has failed to exercise any of its functions under this Order, the Department may by order empower an officer of the Department to exercise, or procure the exercise of, that function.

(2) Any expenses incurred by the Department or by an officer of the Department under any order made under paragraph (1) shall, in the first instance, be defrayed out of moneys appropriated by Measure but—

- (a) the amount of those expenses as certified by the Department shall, on demand, be paid to the Department by the district council; and
- (b) any sum demanded under sub-paragraph (a) shall be recoverable by the Department from the district council as a civil debt due to the Crown.

(3) Nothing in this Article shall affect any other power exercisable by the Department with respect to defaults of district councils.

Miscellaneous

Powers under Order to be cumulative

69. All functions conferred by this Order shall be deemed to be in addition to, and not in derogation of, any other functions conferred by any enactment, law or custom, and, subject to any repeal effected by, or other express provision of, this Order, all such other functions may or, as the case may be, shall, be exercised in the same manner as if this Order had not been made.

Judges and justices of the peace not to be disqualified by liability to rates

70. A judge of any court or a justice of the peace shall not be disqualified from acting in cases arising under this Order by reason only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with others to contribute to, or to be benefited by, any rate or fund out of which any expenses of a district council are to be defrayed.

Power of Department to hold inquiries and investigations

71. The Department may cause inquiries or investigations to be held in any case where it appears to the Department advisable to do so in connection with any matter arising under this Order.

Orders and regulations (general)

72.—(1) The Department may make regulations prescribing anything which is to be prescribed under this Order.

(2) Before making any regulations under this Order, and before making an order under Article 7 or Article 19, the Department shall, subject to paragraph (3), consult with such organisations as appear to the Department to be representative of interests substantially affected by the regulations or by the order.

(3) Paragraph (2) shall not apply in relation to the making of regulations which reproduce, without substantive modification, any provisions in force immediately before 10th December 1956.

(4) Regulations made under this Order may, without prejudice to the generality of the provisions under which they are made,—

- (a) modify for the purposes of the regulations any provisions of this Order relating to the procuring, analysis and examination of samples;
- (b) apply, as respects matters to be dealt with by the regulations, any provision in any Act or Measure (including this Order) dealing with the like matters, with the necessary modifications and adaptations;
- (c) provide for an appeal to a court of summary jurisdiction against any refusal or other decision of an authority by whom the regulations are to be enforced and executed, and for a further appeal to the county court from any decision of a court of summary jurisdiction on any such appeal;
- (d) authorise the making of charges for the purposes of the regulations, or for any services performed under them, and provide for the recovery of charges so made;
- (e) provide that an offence under the regulations shall be punishable on conviction on indictment or on summary conviction;
- (f) include provisions under which a person guilty of an offence under the regulations punishable on conviction on indictment or on summary conviction is liable on summary conviction to a fine not exceeding the statutory maximum or such less amount as may be specified in the regulations and on conviction on indictment to either or both of the following—
 - (i) a fine not exceeding an amount specified in the regulations, or of an indefinite amount;
 - (ii) imprisonment for a term not exceeding two years or such shorter term as may be specified in the regulations;
- (g) include provisions under which a person guilty of an offence under the regulations which is punishable on summary conviction only is liable to a fine not exceeding level 5 on the standard scale or such other level as may be specified in the regulations;

- (h) require persons carrying on any activity to which the regulations apply to keep and produce records and furnish returns;
 - (i) make such consequential, ancillary and incidental provisions as appear to the Department to be necessary or desirable.
- (5) Paragraph (4) other than sub-paragraphs (e) and (f) shall apply to an order made under Article 7 as it applies to regulations made under this Order.
- (6) Any regulations made under this Order shall be subject to negative resolution.

Regulations for purposes of Community provisions

73.—(1) The Department may, as respects any directly applicable Community provision relating to food for which, in its opinion, it is appropriate to make provision under this Order, by regulations make such provision as it considers necessary or expedient for the purpose of securing that the Community provision is administered, executed and enforced under this Order and may apply such of the provisions of this Order as may be specified in the regulations in relation to the Community provision with such modifications, if any, as may be so specified.

(2) For the purpose of complying with any Community obligation, or for conformity with any provision made for that purpose, the Department may by regulations make provision as to—

- (a) the manner of sampling any food specified in the regulations, and the manner in which samples are to be dealt with; and
 - (b) the method to be used in analysing, testing or examining samples of any food so specified;
- and regulations made by the Department for that purpose, or for conformity with any provision so made, may modify or exclude any provision of this Order relating to the procuring or analysis of, or dealing with, samples or to evidence of the results of an analysis or test.

Expenses of sampling officers

74. Any expense incurred under this Order by a sampling officer in procuring samples and causing samples to be analysed shall be defrayed by the authority whose officer he is.

Repeal or amendment of local enactments

75.—(1) The Department may, on the application of a district council, by order wholly or partially repeal or amend any local enactment which is in force in the district of that council, or in any part of its district, and which relates to the subject matter of this Order or of any order or regulation made under this Order.

- (2) An order made under paragraph (1) shall be subject to affirmative resolution.

Amendments, repeals, revocations and savings

76.—(1) The statutory provisions specified in Schedule 3 shall have effect subject to the amendments specified in that Schedule (being amendments consequential on this Order).

(2) The statutory provisions specified in Schedule 4 are hereby repealed or revoked to the extent shown in column 3 of that Schedule. [1958 c. 27 \(N.I.\)](#)

(3) In the application of section 29 of the Interpretation Act (Northern Ireland) 1954(**20**) to any repeal or revocation made by or under this Order or the Food and Drugs Act (Northern Ireland)

1958(21), subsection (1) and paragraph (a) of subsection (3) shall have effect as if the word “statutory” were omitted wherever it occurs.

(4) Any premises which, immediately before the commencement of this Article, are deemed to be registered under section 17 of the Food and Drugs Act (Northern Ireland) 1958(22) by virtue of subsection (14) of that section, shall, notwithstanding the repeal of that subsection, be deemed to be registered under Article 18, and the provisions of that Article shall have effect accordingly.

G. I. de Deney
Clerk of the Privy Council

(21) 1958 c. 27 (N.I.)

(22) 1958 c. 27 (N.I.)

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SCHEDULES

SCHEDULE 1

Article 28.

DISEASES OF COWS TO WHICH ARTICLE 28 APPLIES

Acute mastitis
Actinomycosis of the udder
Suppuration of the udder
Any infection of the udder or teats which is likely to convey disease
Any comatose condition
Any septic condition of the uterus
Anthrax
Foot-and-mouth disease

SCHEDULE 2

Article 64.

ENFORCEMENT AND EXECUTION OF ORDERS AND REGULATIONS MADE UNDER THE FOOD ACT 1984

1.—(1) In this Schedule—

“the Act of 1984” means the Food Act 1984⁽²³⁾;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“order” and “regulations” mean, respectively, an order or regulations made under the Act of 1984 and applying to Northern Ireland;

“ship” includes any boat or craft.

(2) In any provision of this Order applied for the purpose of the enforcement and execution of any order or regulation the expression “sampling officer” shall include an officer authorised in that behalf by the Minister.

2. It shall be the duty of the Minister to enforce and execute the provisions of any order.

3. For the purpose of ascertaining whether there is or has been any contravention of the provisions of any order or regulations an inspector of the Minister shall have the like powers of entry as are exercisable under Article 47 and Article 48 by an authorised officer of a district council; and in relation to any such inspector the reference in Article 47(3) to the council shall be construed as a reference to the Minister.

4.—(1) Without prejudice to the application of subsections (2) and (3) of section 20 of the Interpretation Act (Northern Ireland) 1954⁽²⁴⁾ (which relate to offences committed by bodies corporate), in relation to offences under this Order or any regulations, order or byelaw made under

⁽²³⁾ 1984 c. 30

⁽²⁴⁾ 1954 c. 33 (N.I.)

it, subsection (2) shall, with the omission of the words “subject to subsection (3)”, apply in relation to offences committed by bodies corporate against any provision of any order or regulations.

(2) In the application by sub-paragraph (1) of the said subsection (2) the expression “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

5.—(1) The Minister may, where he is of opinion that the general interests of consumers are affected, institute proceedings for an offence against any provision of regulations made under section 4 or section 7 of the Act of 1984, other than any such provision which it is the duty of a district council to enforce and execute.

(2) A district council shall not, except so far as may be otherwise prescribed by regulations made under section 7 of the Act of 1984, institute proceedings for an offence against any provision of those regulations unless it has given to the Minister fourteen days' notice of its intention to institute the proceedings, together with a summary of the facts on which the charge is founded.

(3) A certificate of the Minister that the requirements of sub-paragraph (2) have been complied with in relation to any proceedings shall be conclusive evidence that they have been so complied with; and any document purporting to be such a certificate and to be signed by or on behalf of the Minister shall be deemed to be such a certificate until the contrary is shown.

6.—(1) A person against whom proceedings are brought in respect of a contravention of any order or regulation shall, upon complaint duly made by him, and on giving not less than three clear days' notice of his intention, be entitled to have brought before the court in the proceedings any person to whose act or default he alleges that the contravention of the provisions in question was due, and the following provisions of this paragraph shall have effect accordingly.

(2) Where, in accordance with sub-paragraph (1), another person has been brought before the court and—

- (a) the contravention of the provisions in question has been proved; and
- (b) the original defendant proves that the contravention was due to the act or default of that other person;

that other person may be convicted of the offence.

(3) Where—

- (a) another person brought before the court in accordance with sub-paragraph (1) has been convicted of the offence in accordance with sub-paragraph (2); and
- (b) the original defendant proves that he used all due diligence to secure that the provisions in question were complied with;

the original defendant shall be acquitted of the offence.

(4) Where a defendant seeks to avail himself of the foregoing provisions of this paragraph—

- (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to the proceedings.

(5) Where it appears to the Minister or, as the case may be, a district council that an offence against any provision of an order or regulation has been committed in respect of which proceedings might be taken against some person, and the Minister or the council is reasonably satisfied that—

- (a) the offence was due to an act or default of some other person; and

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- (b) the first-mentioned person could establish a defence in accordance with the foregoing provisions of this paragraph;

the Minister or the council may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person, and in any such proceedings that other person may be charged with, and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged.

7. The provisions of this Order which are specified in the first column of the following Table shall, subject to the modifications specified in the second column of that Table, apply for the purposes of the enforcement and execution of any order or regulation.

TABLE

<i>Provision of this Order</i>	<i>Modification</i>
Article 38: Paragraph (3)	<p>In sub-paragraph (c), after the word “vehicle” there shall be inserted the words “, ship, aircraft”, and for the words “this Order” there shall be substituted the words “the Food Act 1984”.</p> <p>After paragraph (3) there shall be inserted the following paragraph—</p> <p>“(3A) Without prejudice to paragraph (3) a sampling officer—</p> <p>(a) may take a sample of milk while at any dairy, or while deposited for collection, or at any time before it is delivered to a consumer in pursuance of a sale by retail;</p> <p>(b) may, at the request of a person to whom any food or substance is, or is to be, delivered in pursuance of a contract of sale, take a sample of that food or substance in the course of delivery, or at the place of delivery.”.</p>
Paragraph (4)	<p>For paragraph (4) there shall be substituted the following paragraph—</p> <p>“(4) Except as provided by paragraph (3A), or with the consent of the purchaser, a sampling officer shall not take a sample of any food or substance which appears to him to have been sold by retail, either while the food or substance is in the course of delivery to the purchaser, or at any time after such delivery; and nothing in this Article shall authorise a sampling officer to take a sample of any food or substance in a ship (not being a home-going ship within the meaning of the Food Act 1984) or in any aircraft, other than food imported as part of the cargo of that ship or aircraft.”.</p>

<i>Provision of this Order</i>	<i>Modification</i>
Article 40	Paragraph (7) shall be omitted.
Article 44	
Article 47: Paragraph (1)	For the words “this Order”, wherever those words occur, there shall be substituted the words “the Food Act 1984”.
Paragraphs (2) to (7)	
Article 48: Paragraph (1)	After paragraph (1) there shall be inserted the following paragraph— “(1A) An authorised officer of a district council shall, on producing if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any ship or aircraft for the purpose of ascertaining whether there is in the ship or aircraft any food imported as part of the cargo in contravention of the provisions of regulations made under Part I of the Food Act 1984, and applying to Northern Ireland, being provisions which the district council is required or empowered to enforce.”.
Paragraph (2)	For paragraph (2) there shall be substituted the following paragraph— “(2) Paragraphs (3) to (5) of Article 47 shall apply in relation to any ship, aircraft, vehicle, stall or place which may be entered under the powers conferred by paragraphs (1) and (1A) of this Article, and as if any reference to the occupier of premises were a reference to the master, commander or other person in charge of the ship, aircraft, vehicle, stall or place.”.

SCHEDULE 3

Article 76(1).

CONSEQUENTIAL AMENDMENTS

The Towns Improvement Clauses Act 1847 (c. 34)

1. In section 128, in the paragraph added by Part I of the Second Schedule to the Slaughter-houses Act (Northern Ireland) 1953, for “except in so far as they relate to the licensing and registering of knackers' yards” there shall continue to be substituted “so far as they relate to the prevention of cruelty in knackers' yards”, notwithstanding the repeal of section 71(1) of the Food and Drugs Act (Northern Ireland) 1958.

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The Interpretation Act (Northern Ireland) 1954 (c. 33)

2. In section 43(2), in the definition of “public analyst”, for “Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939” substitute “Food (Northern Ireland) Order 1989”.

The Marketing of Milk Products Act (Northern Ireland) 1958 (c. 31)

3. In section 7—

(a) in subsection (3) for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”;

(b) for subsection (5) substitute the following subsection—

“(5) Article 58 of the Food (Northern Ireland) Order 1989 (pleading of warranty as defence) shall have effect in relation to a prosecution for an offence committed by reason of a contravention of sub-section (2), and Article 59 of that Order (offences in relation to warranties) shall have effect in relation to any warranty which, by virtue of this subsection, is or might be pleaded as a defence in any prosecution under sub-sections (2) and (4), as they have effect in relation to prosecutions or warranties under that Order, as if—

(a) subject to paragraph (b), any reference in those Articles to that Order were a reference to sub-sections (2) and (4);

(b) the references in Article 59(1) and (2) to an offence under that Order were references to an offence against this Act;

(c) in Article 58(1), for “, exposing or advertising” there were substituted “or exposing” and after “for the purpose of sale” there were inserted “or delivery”;

(d) paragraph (2)(c) of Article 58 were omitted.”.

4. In section 15(1A), for “section 22(2A) of the Food and Drugs Act (Northern Ireland) 1958” substitute “Article 29(3) of the Food (Northern Ireland) Order 1989”.

The Agricultural Produce (Meat Regulation and Pig Industry) Act (Northern Ireland) 1962 (c. 13)

5. In section 19, for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

6. In section 20(2), for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

The Horticulture Act (Northern Ireland) 1966 (c. 15)

7. In section 33(3), for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

8. In section 36(b), for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

The Trade Descriptions Act 1968 (c. 29)

9. In section 2(5), for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

10. In section 22(2)—

(a) for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”;

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- (b) in paragraph (c), for “Act of 1958, sections 35 and 38” substitute “Order of 1989, Articles 40 and 44”;
- (c) for “section 68 or 68A of the said Act of 1958” substitute “Article 72 or 73 of the said Order of 1989”.

The Medicines Act 1968 (c. 67)

11. In Schedule 3, in paragraph 1(2), for “section 31 of the Food and Drugs Act (Northern Ireland) 1958” substitute “Article 36 of the Food (Northern Ireland) Order 1989”.

The Weights and Measures &c. Act 1976 (c. 77)

12. In section 12—

- (a) in subsection (1), for paragraph (c) substitute the following paragraph—
 - “(c) Article 6 or 9 of the Food (Northern Ireland) Order 1989 (the “1988 Order”); or”;
- (b) in subsection (5)(a), for “or Order” and “or that Order” substitute respectively “or Orders” and “or those Orders”;
- (c) in subsection (9)(b), for “1958 Act” substitute “1989 Order”.

13. In Schedule 6, for paragraph 4 substitute the following paragraph—

“Food (Northern Ireland) Order 1989 (NI 6)

4.—(1) This paragraph applies where the relevant requirement took effect under or by virtue of the Food (Northern Ireland) Order 1989.

(2) The following provisions of that Order—

- (a) Part III (administration and enforcement),
- (b) Part IV (procedure and evidence), and
- (c) Articles 67, 68 and 74 (default powers and other supplemental provisions),

shall apply as if the substituted requirement were imposed by regulations under Article 6 or 9.”.

The Poisons (Northern Ireland) Order 1976 (NI 23)

14. In Article 2(2), in the definition of “public analyst”, for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

The Hydrocarbon Oil Duties Act 1979 (c. 5)

15. In Schedule 5, in paragraph 5(d), for “section 31 of the Food and Drugs Act (Northern Ireland) 1958” substitute “Article 36 of the Food (Northern Ireland) Order 1989”.

The Weights and Measures (Northern Ireland) Order 1981 (NI 10)

16. In Article 2(2), in the definition of “drugs” and “food”, for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

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The Milk (Northern Ireland) Order 1983 (NI 2)

17. In Article 5(3)(b), for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

18. In Article 9(2), for “section 22(2A) of the Food and Drugs Act (Northern Ireland) 1958” substitute “Article 29(3) of the Food (Northern Ireland) Order 1989”.

19. In Article 10, for paragraph (3) substitute the following paragraph—

“(3) A warranty or invoice shall be available as a defence in a prosecution for an offence under this Order in any case where a warranty or invoice would be so available if the prosecution had been taken under the Food (Northern Ireland) Order 1989 in respect of the sale of an article of food, and Articles 58 (omitting paragraph (2)(c)) and 59 (omitting paragraph (1)) shall apply accordingly.”.

The Food and Environment Protection Act 1985 (c. 48)

20. In section 24(1), in the definition of “food”, for “section 70 of the Food and Drugs Act (Northern Ireland) 1958” substitute “Article 2(2) of the Food (Northern Ireland) Order 1989”.

The Criminal Justice (Northern Ireland) Order 1986 (NI 15)

21. In Article 11(2), for “that Act of 1958” substitute “the Food and Drugs Act (Northern Ireland) 1958”.

The Health and Personal Social Services (Amendment)(Northern Ireland) Order 1986 (NI 20)

22. In Article 2(2), in the definition of “the food legislation”, for paragraphs (a) to (c) substitute—

- “(a) the Food (Northern Ireland) Order 1989; and
- (b) any regulations or order made under that Order;”.

The Consumer Protection Act 1987 (c. 43)

23. In section 19(1), in the definition of “food”, for “and Drugs Act (Northern Ireland) 1958” substitute “(Northern Ireland) Order 1989”.

SCHEDULE 4

Article 76(2).

REPEALS AND REVOCATIONS

Chapter or Number	Title	Extent of repeal or revocation
<i>Repeals</i>		
1958 c. 27 (N.I.).	The Food and Drugs Act (Northern Ireland) 1958.	The whole Act.
1962 c. 7 (N.I.).	The Administrative and Financial Provisions Act (Northern Ireland) 1962.	Sections 5 and 6. The Schedule.
1967 c. 15 (N.I.).	The Agriculture (Miscellaneous Provisions) Act (Northern Ireland) 1967.	Section 12.

Chapter or Number	Title	Extent of repeal or revocation
1972 NI 14.	The Health and Personal Social Services (Northern Ireland) Order 1972.	In Schedule 16, paragraph 22.
1979 NI 17.	The Control of Food Premises (Northern Ireland) Order 1979.	The whole Order.
1981 NI 22.	The Diseases of Animals (Northern Ireland) Order 1981.	In Schedule 5, paragraph 4.
1983 NI 2.	The Milk (Northern Ireland) Order 1983.	In Schedule 1, paragraphs 1 and 3.
1985 NI 15.	The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985.	In Article 37, paragraph (a). In Schedule 3, paragraphs 11 to 14.
1986 NI 15.	The Criminal Justice (Northern Ireland) Order 1986.	In Article 11, paragraph (1). Schedule 4.
Revocations		
S.R. & O. (N.I.) 1972 No. 363.	The European Communities (Food and Drugs) Order (Northern Ireland) 1972.	The whole order.
S.R. & O. (N.I.) 1973 No. 211.	The Local Government (Modifications and Repeals of Health etc. Legislation) Order (Northern Ireland) 1973.	In the Schedule, the entries relating to the Food and Drugs Act (Northern Ireland) 1958 and the Administrative and Financial Provisions Act (Northern Ireland) 1962.
S.R. 1975 No. 373.	The European Communities (Food and Drugs) Order (Northern Ireland) 1975.	The whole order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order consolidates the Food and Drugs Act (Northern Ireland) 1958, the Control of Food Premises (Northern Ireland) Order 1979 and the provisions amending them.