
STATUTORY INSTRUMENTS

1989 No. 846

The Food (Northern Ireland) Order 1989

PART V

MISCELLANEOUS AND GENERAL

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(1) to any repeal or revocation made by or under this Order or the Food and Drugs Act (Northern Ireland) 1958(2), 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(3) 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.

(1) [1954 c. 33 \(N.I.\)](#)
(2) [1958 c. 27 \(N.I.\)](#)
(3) [1958 c. 27 \(N.I.\)](#)