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## STATUTORY INSTRUMENTS

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# 1991 No. 762

## The Food Safety (Northern Ireland) Order 1991

### PART II

#### GENERAL PROVISIONS AS TO FOOD

##### *Food safety*

#### **Prohibition orders**

##### **10.—(1) If—**

- (a) the proprietor of a food business is convicted of an offence under any regulations to which this Article applies; and
- (b) the court by or before which he is so convicted is satisfied that the health risk condition is fulfilled with respect to that business,

the court shall by an order impose the appropriate prohibition.

(2) The health risk condition is fulfilled with respect to any food business if any of the following involves risk of injury to health, namely—

- (a) the use for the purposes of the business of any process or treatment;
- (b) the construction of any premises used for the purposes of the business, or the use for those purposes of any equipment; and
- (c) the state or condition of any premises or equipment used for the purposes of the business.

[<sup>F1</sup>(2A) In paragraph (2) and in Articles 11(4) and 12(1) “injury” includes any impairment, whether permanent or temporary.]

##### **(3) The appropriate prohibition is—**

- (a) in a case falling within paragraph (2)(a), a prohibition on the use of the process or treatment for the purposes of the business;
- (b) in a case falling within paragraph (2)(b), a prohibition on the use of the premises or equipment for the purposes of the business or any other food business of the same class or description;<sup>60</sup>
- (c) in a case falling within paragraph (2)(c), a prohibition on the use of the premises or equipment for the purposes of any food business.

##### **(4) If—**

- (a) the proprietor of a food business is convicted of an offence under any regulations to which this Article applies by virtue of Article 9(3)(b); and
- (b) the court by or before which he is so convicted thinks it proper to do so in all the circumstances of the case,

the court may, by order, impose a prohibition on the proprietor participating in the management of any food business, or any food business of a class or description specified in the order.

(5) As soon as practicable after the making of an order under paragraph (1) or (4) (a “prohibition order”), the district council or, as the case may be, <sup>F2</sup> the Food Standards Agency or] the Department of Agriculture shall—

- (a) serve a copy of the order on the proprietor of the business; and
- (b) in the case of an order under paragraph (1), affix a copy of the order in a conspicuous position on such premises used for the purposes of the business as it considers appropriate; and any person who knowingly contravenes such an order shall be guilty of an offence.

(6) A prohibition order shall cease to have effect—

- (a) in the case of an order under paragraph (1), on the issue by the district council or, as the case may be, <sup>F2</sup> the Food Standards Agency or] the Department of Agriculture of a certificate to the effect that it is satisfied that the proprietor has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the business;
- (b) in the case of an order under paragraph (4), on the giving by the court of a direction to that effect.

(7) The district council or, as the case may be, <sup>F2</sup> the Food Standards Agency or] the Department of Agriculture shall issue a certificate under paragraph (6)(a) before the expiration of 3 days from being satisfied as mentioned in that sub#paragraph; and, on an application by the proprietor for such a certificate, shall—

- (a) determine, as soon as is reasonably practicable and in any event before the expiration of 14 days from the making of the application, whether or not it is so satisfied; and
- (b) if it determines that it is not so satisfied, give notice to the proprietor of the reasons for that determination.

(8) The court shall give a direction under paragraph (6)(b) if, on an application by the proprietor, the court thinks it proper to do so having regard to all the circumstances of the case, including in particular the conduct of the proprietor since the making of the order; but no such application shall be entertained if it is made—

- (a) before the expiration of 6 months from the making of the prohibition order; or
- (b) before the expiration of 3 months from the making by the proprietor of a previous application for such a direction.

(9) Where a magistrates' court makes an order under Article 11 with respect to any food business, paragraph (1) of this Article shall apply as if the proprietor of the business had been convicted by the court of an offence under regulations to which this Article applies.

(10) Paragraph (4) shall apply in relation to a manager of a food business as it applies in relation to the proprietor of such a business; and any reference in paragraph (5) or (8) to the proprietor of the business, or to the proprietor, shall be construed accordingly.

(11) In paragraph (10) “manager”, in relation to a food business, means any person who is entrusted by the proprietor with the day to day running of the business, or any part of the business.

**F1** SR 2004/505

**F2** 1999 c. 28

**Changes to legislation:**

There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Section 10.