
STATUTORY INSTRUMENTS

1989 No. 846

The Food (Northern Ireland) Order 1989

PART III

ADMINISTRATION AND ENFORCEMENT

Sampling and analysis

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.