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STATUTORY INSTRUMENTS

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**1991 No. 762**

**The Food Safety(Northern Ireland) Order 1991**

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Food Safety (Northern Ireland) Order 1991.

(2) Subject to paragraph (3), this Order shall come into operation on such day or days as the Head of the Department may by order appoint.

(3) This Article and Articles 2 and 12 shall come into operation on the expiration of 2 months from the day on which the Order is made.

(4) An order under paragraph (2) may contain such transitional and supplementary provisions as appear to the Head of the Department to be necessary or expedient.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(1)</sup> 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—

“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 microbiological assay and any technique for establishing the composition of food;

“animal” means any creature other than a bird or fish;

“article” does not include a live animal or bird, or a live fish which is not used for human consumption while it is alive;

“authorised officer” means—

(a) in the case of functions conferred on a district council, subject to Article 26(5), a person who is generally or specially authorised in writing by that council for the purposes of this Order;

(b) in the case of functions conferred on the Department of Agriculture, a person who is generally or specially authorised in writing by that Department for the purposes of this Order;

“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;

“commercial operation”, in relation to any food or contact material, means any of the following, namely—

- (a) selling, possessing for sale and offering, exposing or advertising for sale;
- (b) consigning, delivering or serving by way of sale;
- (c) preparing for sale or presenting, labelling or wrapping for the purpose of sale;
- (d) storing or transporting for the purpose of sale;
- (e) importing and exporting;

and, in relation to any food source, means deriving food from it for the purpose of sale or for purposes connected with sale;

“contact material” means any article or substance which is intended to come into contact with food;

“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;

“dairy farm”—

- (a) means any farm on which milk is produced, but
- (b) does not include any part of any such premises on which milk is manufactured into other products;

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

“the Department concerned” means—

- (a) except as provided by sub-paragraphs (b) and (c) and by Article 12(8), in the case of all foods, the Department;
- (b) in the case of imported milk or milk in liquid milk plants or dairy farms, the Department of Agriculture;
- (c) in the case of—
  - (i) the control on residues in meat or milk of veterinary drugs and such other substances as may be specified in an order;
  - (ii) the use of novel processes or treatments in the preparation of food;
  - (iii) novel foods, genetically modified food sources, food sources from which novel foods are intended to be derived or foods derived from genetically modified food sources;

the Department and the Department of Agriculture acting jointly;

“description”, in relation to food, includes any description of its origin or of the manner in which it is packed;

“equipment” includes any apparatus;

“examination” means microbiological examination;

“exportation” and “importation” have the same meanings as they have for the purposes of the Customs and Excise Management Act 1979(2);

“fish” includes crustaceans and molluscs;

“food” includes—

- (a) drink;

- (b) articles and substances of no nutritional value which are used for human consumption;
- (c) chewing gum and other products of a like nature and use; and
- (d) articles and substances used as ingredients in the preparation of food or anything falling within this sub-paragraph and sub-paragraphs (a) to (c);

but does not include—

- (i) live animals or birds, or live fish which are not used for human consumption while they are alive;
- (ii) fodder or feeding stuffs for animals, birds or fish;
- (iii) controlled drugs within the meaning of the Misuse of Drugs Act 1971<sup>(3)</sup>; or
- (iv) subject to such exceptions as may be specified in an order—
  - (aa) medicinal products within the meaning of the Medicines Act 1968<sup>(4)</sup> in respect of which product licences within the meaning of that Act are for the time being in force; or
  - (ab) other articles or substances in respect of which such licences are for the time being in force in pursuance of orders under section 104 or 105 of that Act of 1968 (application of Act to other articles and substances);

“food business” means any business in the course of which commercial operations with respect to food or food sources are carried out;

“food premises” means any premises used for the purposes of a food business;

“food source” means any growing crop or live animal, bird or fish from which food is intended to be derived (whether by harvesting, slaughtering, milking, collecting eggs or otherwise);

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

“liquid milk plant”—

- (a) includes any premises—
  - (i) in which milk is received, stored, treated, processed and packaged; or
  - (ii) from which milk is supplied or distributed for sale; or
  - (iii) in which milk is kept or used for purposes of sale; or
  - (iv) in which vessels and equipment used for the sale of milk are kept, but
- (b) does not include—
  - (i) any part of any such premises on which milk is manufactured into other products, or
  - (ii) subject to such exceptions as may be specified in an order, premises from which milk is sold by retail;

“milk” includes cream and skimmed or separated milk;

“novel”—

- (a) in relation to food, means any food which has not previously been used for human consumption in Northern Ireland, or has been so used only to a very limited extent;
- (b) in relation to processes or treatments, means any process or treatment which has not previously been used in Northern Ireland, or has been so used only to a very limited extent;

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<sup>(3)</sup> 1971 c. 38

<sup>(4)</sup> 1968 c. 67

“occupier”, in relation to any ship or aircraft of a description specified in an order or any vehicle, stall or place, means the master, commander or other person in charge of the ship, aircraft, vehicle, stall or place;

“officer” includes servant;

“order”, except in Article 1(2), means an order made by the Department concerned subject to negative resolution;

“premises” includes any place, any vehicle, stall or moveable structure and, for such purposes as may be specified in an order, any ship or aircraft of a description so specified;

“preparation”, in relation to food, includes manufacture and any form of processing or treatment, and “preparation for sale” includes, subject to paragraph (3), packaging;

“presentation”, in relation to food, includes the shape, appearance and packaging of the food, the way in which the food is arranged when it is exposed for sale and the setting in which the food is displayed with a view to sale, but does not include any form of labelling or advertising;

“proprietor”, in relation to a food business, means the person by whom that business is carried on;

“public analyst” means a person appointed under Article 27(1);

“regulations”, except in Article 46, means regulations made by the Department concerned subject to negative resolution;

“ship” includes any vessel, boat or craft, and a hovercraft within the meaning of the Hovercraft Act 1968(5), and “master” shall be construed accordingly;

“slaughter-house” means any premises used for the slaughtering of animals, the flesh of which is intended for human consumption;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(6);

“substance” includes any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

“treatment”, in relation to any food, includes subjecting it to heat or cold;

“veterinary drugs” has the same meaning as in section 132(1) of the Medicines Act 1968(7).

(3) The reference in paragraph (2) to preparing for sale shall be construed, in relation to any contact material, as a reference to manufacturing or producing for the purpose of sale.

(4) For the purposes of this Order—

- (a) the supply of food, otherwise than on sale, in the course of a business; and
- (b) any other thing which is done with respect to food and is specified in an order,

shall be deemed to be a sale of the food, and references to purchasers and purchasing shall be construed accordingly.

(5) For the purposes of this Order, any class or description may be framed by reference to any matters or circumstances whatever, including in particular, in the case of a description of food, the brand name under which it is commonly sold.

(6) The district of a district council which is bounded by or to seaward of the high-water mark of mean tides shall also include, for the purposes of this Order, the territorial waters of the United Kingdom which are outside that district adjacent to any place where that high-water mark is within or on the boundary of that district.

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(5) 1968 c. 59  
(6) 1954 c. 33 (N.I.)  
(7) 1968 c. 67

(7) The following Table shows provisions defining or otherwise explaining expressions used in this Order (other than provisions defining or explaining an expression used only in the same Article)

emergency control order	Article 12(1)
emergency prohibition notice	Article 11(1)
emergency prohibition order	Article 11(2)
food safety requirements and related expressions	Article 5(2)
improvement notice	Article 9
injury to health and injurious to health	Article 5(1)
prohibition ordersale and related expressionsunfit for human consumption	Article 10(5)Articles 2(4) and 3Article 5(4)

#### **Application to food offered as prizes, etc.**

3. This Order shall apply—

- (a) in relation to any food which 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 the 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, for the purpose of advertisement or in furtherance of any trade or business, is offered as a prize or reward or given away, as if the food were, or had been, exposed for sale by the person offering or giving away the food; and
- (c) in relation to any food which is exposed or deposited in any premises for the purpose of being so offered or given away as mentioned in sub-paragraph (a) or (b), as if the food were, or had been, exposed for sale by the occupier of the premises;

and in this Article “entertainment” includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

#### **Presumptions that food intended for human consumption**

4. For the purposes of this Order—

- (a) any food 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 or to be intended for sale for human consumption;
- (b) any food commonly used for human consumption which is found on premises used for the preparation, storage, or sale of that food shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing food for sale, for human consumption;
- (c) any article or substance commonly used in the manufacture of food for human consumption which is found on premises used for the preparation, storage or sale of that food shall be presumed, until the contrary is proved, to be intended for sale, or for manufacturing food for sale, for human consumption;
- (d) any article or substance capable of being used in the composition or preparation of any food commonly used for human consumption which is found on premises on which that food is prepared shall, until the contrary is proved, be presumed to be intended for such use.

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**Status:** *This is the original version (as it was originally made).*

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