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STATUTORY INSTRUMENTS

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**1989 No. 846**

**The Food (Northern Ireland) Order 1989**

**PART II**

**GENERAL PROVISIONS AS TO FOOD**

*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(1);

“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(2).

**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 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(3); or
- (b) the Slaughter-houses Act (Northern Ireland) 1953(4),

in respect of that use of the premises.

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(3) 1983 NI 2

(4) 1953 c. 21 (N.I.)