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## STATUTORY INSTRUMENTS

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# 1991 No. 762

## The Food Safety (Northern Ireland) Order 1991

### PART III

#### ADMINISTRATION AND ENFORCEMENT

##### *Sampling and analysis, etc.*

#### **Procurement of samples**

<sup>F1</sup>29. An authorised officer may—

- (a) purchase a sample of any food, or any substance capable of being used in the preparation of food;
- (b) take a sample of any food, or any such substance, which—
  - (i) appears to him to be intended for sale, or to have been sold, for human consumption; or
  - <sup>F2</sup>(ii) is found by him on or in any premises which he is authorised to enter by or under Article 33;
- <sup>F2</sup>(c) take a sample from any food source, or a sample of any contact material, which is found by him on or in any such premises;
- <sup>F2</sup>(d) take a sample of any article or substance which is found by him on or in any such premises and which he has reason to believe may be required as evidence in proceedings under any of the provisions of this Order or of regulations or orders made under it.

**F1** mod. by SR 2002/140, 141, 226, 293, 307; 2003/299, 353, 360, 362, 377

**F2** mod. by SR 2005/284

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#### **Modifications etc. (not altering text)**

**C1** mod. by SR 2004/487

**C2** Art. 29 applied (with modifications) (14.4.2008) by [Eggs and Chicks Regulations \(Northern Ireland\) 2008 \(S.R. 2008/98\)](#), **reg. 20**

**C3** Art. 29 applied (with modifications) (22.12.2008) by [Eggs and Chicks \(No. 2\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/451\)](#), **reg. 20**

**C4** Art. 29 applied (with modifications) (20.1.2010) by [Food \(Jelly Mini-Cups\) \(Emergency Control\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/417\)](#), **reg. 5(5)**

**C5** Art. 29 applied (with modifications) (28.4.2010) by [Eggs and Chicks Regulations \(Northern Ireland\) 2010 \(S.R. 2010/125\)](#), **reg. 29**

**C6** Art. 29 applied (with modifications) (14.10.2011) by [Poultrymeat Regulations \(Northern Ireland\) 2011 \(S.R. 2011/315\)](#), **reg. 26(1)(b)(2)**

*Status: Point in time view as at 20/11/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Cross Heading: Sampling and analysis, etc.. (See end of Document for details)*

### **Analysis, etc., of samples procured by authorised officer of a district council**

**30.**—<sup>F3</sup>(1) An authorised officer of a district council who has procured a sample under Article 29 shall—

- (a) if he considers that the sample should be analysed, submit it to be analysed either—
  - (i) by the public analyst for the district in which the sample was procured; or
  - (ii) by the public analyst for the district which consists of or includes the district of the council;
- (b) if he considers that the sample should be examined, submit it to be examined by a food examiner.

(2) A person, other than such an officer, who has purchased any food, or any substance capable of being used in the preparation of food, may submit a sample of it—

- (a) to be analysed by the public analyst for the district in which the purchase was made; or
- (b) to be examined by a food examiner.

(3) If, in any case where a sample is proposed to be submitted for analysis under this Article, the office of public analyst for the district in question is vacant, the sample shall be submitted to the public analyst for some other district.

(4) If, in any case where a sample is proposed to be or is submitted for analysis or examination under this Article, the food analyst or examiner determines that he is for any reason unable to perform the analysis or examination, the sample shall be submitted or, as the case may be, sent by him to such other food analyst or examiner as he may determine.

(5) A food analyst or examiner shall analyse or examine as soon as practicable any sample submitted or sent to him under this Article, but may, except where—

- (a) he is the public analyst for the district in question; and
- (b) the sample is submitted to him for analysis by an authorised officer of a district council, demand in advance the payment of such reasonable fee as he may require.

(6) A food analyst or examiner who has analysed or examined a sample shall give to the person by whom it was submitted a certificate specifying the result of the analysis or examination.

(7) Any certificate given by a food analyst or examiner under paragraph (6) shall be signed by him, but the analysis or examination may be made by any person acting under his direction.

(8) In any proceedings under this Order, the production by one of the parties—

- (a) of a document purporting to be a certificate given by a food analyst or examiner under paragraph (6); or
- (b) of a document supplied to him by the other party as being a copy of such a certificate,

shall be sufficient evidence of the facts stated in it unless, in a case falling within sub#paragraph (a), the other party requires that the food analyst or examiner shall be called as a witness.

(9) In this Article—

“food analyst” means a public analyst or any other person who possesses the requisite qualifications to carry out analyses for the purposes of this Order;

“food examiner” means any person who possesses the requisite qualifications to carry out examinations for the purposes of this Order;

“the requisite qualifications” means such qualifications as may be prescribed by regulations, or such other qualifications as the Department may approve;

“sample”, in relation to an authorised officer of a district council, includes any part of a sample retained by him in pursuance of regulations under Article 32;

and where 2 or more than 2 public analysts are appointed for any district, any reference in this Article to the public analyst for that district shall be construed as a reference to either or any of them.

F3 mod. by SR 2005/284

#### Modifications etc. (not altering text)

- C7 Art. 30 applied (19.11.2006) by Plastic Materials and Articles in Contact with Food (No 2) Regulations (Northern Ireland) 2006 (S.R. 2006/420), **reg. 19(3)(d)**
- C8 Art. 30 applied (31.10.2007) by Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 (S.R. 2007/420), **reg. 17(7)** (with reg. 3)
- C9 Art. 30 applied (with modifications) (20.1.2010) by Food (Jelly Mini-Cups) (Emergency Control) Regulations (Northern Ireland) 2009 (S.R. 2009/417), **reg. 5(1)(d)**
- C10 Art. 30(8) applied (30.6.2006) by Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 2006 (S.R. 2006/251), **reg. 21(1)(b)**;  
Art. 30(8) applied (with modifications) (1.7.2006) by Contaminants in Food Regulations (Northern Ireland) 2006 (S.R. 2006/256), **reg. 5(1)(d)**;  
Art. 30(8) applied (19.11.2006) by Plastic Materials and Articles in Contact with Food (No 2) Regulations (Northern Ireland) 2006 (S.R. 2006/420), **reg. 22(1)(b)**
- C11 mod. by SR 2004/487
- C12 Art. 30(8) applied (1.3.2007) by Notification of Marketing of Food for Particular Nutritional Uses Regulations (Northern Ireland) 2007 (S.R. 2007/60), **reg. 7(f)**
- C13 Art. 30(8) applied (with modifications) (1.3.2007) by Quick-frozen Foodstuffs Regulations (Northern Ireland) 2007 (S.R. 2007/65), **reg. 10(e)**
- C14 Art. 30(8) applied (with modifications) (1.3.2007) by Contaminants in Food Regulations (Northern Ireland) 2007 (S.R. 2007/66), **reg. 5(1)(d)**
- C15 Art. 30(8) applied (with modifications) (1.3.2007) by Quick-frozen Foodstuffs (No.2) Regulations (Northern Ireland) 2007 (S.R. 2007/110), **reg. 10(e)**
- C16 Art. 30(8) applied (with modifications) (7.8.2007) by Addition of Vitamins, Minerals and Other Substances Regulations (Northern Ireland) 2007 (S.R. 2007/301), **reg. 5(f)**
- C17 Art. 30(8) applied (with modifications) (1.10.2007) by Nutrition and Health Claims Regulations (Northern Ireland) 2007 (S.R. 2007/349), **reg. 6(f)**
- C18 Art. 30(8) applied (with modifications) (5.11.2007) by Plastic Materials and Articles in Contact with Food (Lid Gaskets) Regulations (Northern Ireland) 2007 (S.R. 2007/419), **reg. 10(b)**
- C19 Art. 30(8) applied (31.10.2007) by Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 (S.R. 2007/420), **reg. 22(1)(f)** (with reg. 3)
- C20 Art. 30(8) applied (with modifications) (5.11.2007) by Materials and Articles in Contact with Food Regulations (Northern Ireland) 2007 (S.R. 2007/434), regs. 1(2), **20(1)(c)**
- C21 Art. 30(8) applied (with modifications) (11.1.2008) by Infant Formula and Follow-on Formula Regulations (Northern Ireland) 2007 (S.R. 2007/506), **reg. 29(d)**
- C22 Art. 30(8) applied (with modifications) (14.4.2008) by Eggs and Chicks Regulations (Northern Ireland) 2008 (S.R. 2008/98), **reg. 20**
- C23 Art. 30(8) applied (5.5.2008) by Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 2008 (S.R. 2008/167), **reg. 25(b)**
- C24 Art. 30(8) applied (with modifications) (1.7.2008) by Drinking Milk Regulations (Northern Ireland) 2008 (S.R. 2008/237), **reg. 7(f)**
- C25 Art. 30(8) applied (with modifications) (1.7.2008) by Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) Regulations (Northern Ireland) 2008 (S.R. 2008/239), regs. 3, **7(g)**
- C26 Art. 30(8) applied (with modifications) (22.12.2008) by Eggs and Chicks (No. 2) Regulations (Northern Ireland) 2008 (S.R. 2008/451), **reg. 20**
- C27 Art. 30(8) applied (with modifications) (1.7.2009) by Contaminants in Food Regulations (Northern Ireland) 2009 (S.R. 2009/220), **reg. 5(1)(d)**

*Status: Point in time view as at 20/11/2012.*

*Changes to legislation: There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Cross Heading: Sampling and analysis, etc.. (See end of Document for details)*

- C28** Art. 30(8) applied (with modifications) (31.7.2009) by Food Irradiation Regulations (Northern Ireland) 2009 (S.R. 2009/258), **reg. 11(1)(f)**
- C29** Art. 30(8) applied (with modifications) (1.1.2010) by Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) Regulations (Northern Ireland) 2009 (S.R. 2009/398), **reg. 4(d)**
- C30** Art. 30(8) applied (with modifications) (20.1.2010) by Food Enzymes Regulations (Northern Ireland) 2009 (S.R. 2009/415), **reg. 5(1)(c)**
- C31** Art. 30(8) applied (with modifications) (20.1.2010) by Food Additives Regulations (Northern Ireland) 2009 (S.R. 2009/416), **reg. 16(1)(e)**
- C32** Art. 30(8) applied (with modifications) (6.4.2010) by Fish Labelling Regulations (Northern Ireland) 2010 (S.R. 2010/54), **reg. 10(d)**
- C33** Art. 30(8) applied (with modifications) (28.4.2010) by Eggs and Chicks Regulations (Northern Ireland) 2010 (S.R. 2010/125), **reg. 29**
- C34** Art. 30(8) applied (with modifications) (20.10.2010) by Materials and Articles in Contact with Food Regulations (Northern Ireland) 2010 (S.R. 2010/321), **reg. 20(1)(b)** (with reg. 3)
- C35** Art. 30(8) applied (with modifications) (20.10.2010) by Contaminants in Food Regulations (Northern Ireland) 2010 (S.R. 2010/335), **reg. 5(1)(d)**
- C36** Art. 30(8) applied (with modifications) (20.1.2011) by Flavourings in Food Regulations (Northern Ireland) 2010 (S.R. 2010/414), **reg. 5(1)(c)**
- C37** Art. 30(8) applied (with modifications) (1.7.2011) by Plastic Kitchenware (Conditions on Imports from China) Regulations (Northern Ireland) 2011 (S.R. 2011/236), **reg. 11(1)(c)**
- C38** Art. 30(8) applied (with modifications) (14.10.2011) by Poultrymeat Regulations (Northern Ireland) 2011 (S.R. 2011/315), **reg. 26(1)(c)(2)**
- C39** Art. 30(8) applied (with modifications) (1.1.2012) by The Foodstuffs Suitable for People Intolerant to Gluten Regulations (Northern Ireland) 2010 (S.R. 2010/338), **regs. 1, 5(d)**
- C40** Art. 30(8) applied with modifications (20.11.2012) by The Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012 (S.R. 2012/384), **regs. 1, 26(1)(b)** (with reg. 3)

### **Analysis, etc., of samples procured by authorised officer of the Department of Agriculture**

**31.—(1)** An authorised officer of the Department of Agriculture who has procured a sample under Article 29 may—

- (a) if he considers that the sample should be analysed by an analyst appointed under Article 27(6), submit it to be so analysed;
- (b) if he considers that the sample should be examined by a food examiner, submit it to be so examined.

[<sup>F4</sup>(1A) An authorised officer of the Food Standards Agency who has procured a sample under Article 29 may—

- (a) if he considers that the sample should be analysed by a public analyst or a food analyst, submit it to be so analysed;
- (b) if he considers that the sample should be examined by a food examiner, submit it to be so examined,

and for the purposes of this paragraph references in Article 27(1) and (6) to functions conferred on district councils or to the functions of the Department of Agriculture include references to functions of the Food Standards Agency.]

(2) Paragraphs (4) to (8) of Article 30 shall apply for the purpose of the analysis or examination of a sample submitted under paragraph (1)[<sup>F4</sup> or (1A)] of this Article as they apply for the purpose of the analysis or examination of a sample submitted under paragraph (1) of Article 30.

(3) For the purposes of this Article—

“food analyst” means an analyst appointed under Article 27(6) or any other person who possesses the requisite qualifications to carry out analyses for the purposes of this Order;

“food examiner” means any person who possesses the requisite qualifications to carry out examinations for the purposes of this Order;

“the requisite qualifications” means such qualifications as may be prescribed by regulations, or such other qualifications as the<sup>F4</sup> Department] may approve;

“sample”, in relation to an authorised officer of the Department of Agriculture<sup>F4</sup> or the Food Standards Agency], includes any part of a sample retained by him in pursuance of regulations under Article 32.

F4 1999 c. 28

### Regulation of sampling and analysis, etc.

**32.**—(1) Regulations may make provision for supplementing or modifying the provisions of Articles 29 to 31.

(2) Without prejudice to the generality of paragraph (1), regulations made under that paragraph may make provision with respect to—

- (a) the matters to be taken into account in determining whether, and at what times, samples should be procured;
- (b) the manner of procuring samples, including the steps to be taken in order to ensure that any samples procured are fair samples;
- (c) the method of dealing with samples, including (where appropriate) their division into parts;
- (d) the persons to whom parts of samples are to be given and the persons by whom such parts are to be retained;
- (e) the notices which are to be given to, and the information which is to be furnished by, the persons in charge of any food, substance, contact material or food source of or from which samples are procured;
- (f) the methods which are to be used in analysing or examining samples, or parts of samples, or in classifying the results of analyses or examinations;
- (g) the circumstances in which a food analyst or examiner is to be precluded, by reason of a conflict of interest, from analysing or examining a particular sample or part of a sample; and
- (h) the circumstances in which samples, or parts of samples, are to be or may be submitted for analysis or examination—
  - (i) to the Government Chemist, or to such other food analyst or examiner as he may direct; or
  - (ii) to a person determined by or under the regulations.

**Status:**

Point in time view as at 20/11/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Cross Heading: Sampling and analysis, etc..