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STATUTORY INSTRUMENTS

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**1991 No. 762**

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

**PART IV**

**MISCELLANEOUS AND SUPPLEMENTAL**

*Powers of Department*

**Power to issue codes of practice**

**39.**—(1) For the guidance of district councils,<sup>[F1]</sup> the Department] may issue codes of recommended practice as regards the execution and enforcement of this Order and of regulations and orders made under it; and any such code shall be laid before the Assembly after being issued.

<sup>[F1]</sup>(1A) The Food Standards Agency may, after consulting the Department, give a district council a direction requiring the council to take any specified steps in order to comply with a code under this Article.]

(2) In the exercise of the functions conferred on district councils by or under this Order, every district council—

- (a) shall have regard to any relevant provision of any such code; and
- (b) shall comply with any direction which is given<sup>[F1]</sup> under this Article and] requires the council to take any specified steps in order to comply with such a code.

(3) Any direction under<sup>[F1]</sup> paragraph (1A)] shall, on the application of<sup>[F1]</sup> the Food Standards Agency], be enforceable by mandamus.

<sup>[F1]</sup>(3A) The Food Standards Agency shall consult the Department before making an application under paragraph (3).]

(4) Before issuing any code under this Article,<sup>[F1]</sup> the Department] shall

<sup>[F1]</sup>(a) [<sup>[F2]</sup>Subject to paragraph (4B),] consult with such organisations as appear to<sup>[F1]</sup> the Department] to be representative of interests likely to be substantially affected by the code<sup>[F1]</sup>; and]

<sup>[F1]</sup>(b) have regard to any relevant advice given by the Food Standards Agency]

<sup>[F1]</sup>(4A) If it appears to the Department that the Food Standards Agency has undertaken any consultation with an organisation that the Department is required to consult under paragraph (4), the Department may treat that consultation as being as effective for the purposes of that paragraph as if undertaken by the Department.]

<sup>[F2]</sup>(4B) Paragraph (4)(a) shall not apply in any case in which consultation is required by Article 9 of Regulation (EC) No. 178/2002.]

(5) Any consultation undertaken before paragraph (4) comes into operation shall be as effective, for the purposes of that paragraph, as if undertaken after that paragraph comes into operation.

**Status:** Point in time view as at 01/04/2007.

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

- F1** 1999 c. 28  
**F2** SR 2004/482

### Power to require returns

**40.** Every district council shall send to the Department<sup>[F3]</sup> or the Food Standards Agency] such reports and returns, and give to the Department<sup>[F3]</sup> or the Food Standards Agency] such information, with respect to the exercise of the functions conferred on district councils by or under this Order, as the Department<sup>[F3]</sup> or the Food Standards Agency] may require.

- F3** 1999 c. 28

### Default powers

**41.—**(1) Where<sup>[F4]</sup> the Department] is satisfied that—

- (a) a district council (in this Article referred to as “the council in default”) have failed to discharge any functions conferred by or under this Order; and
- (b) the council's failure affects the general interests of consumers of food,

<sup>[F4]</sup>the Department] may, by order, empower<sup>[F4]</sup> the Food Standards Agency or] an officer of<sup>[F4]</sup> the Department] to exercise, or procure the exercise of, that function in place of the council in default.

(2) For the purpose of determining whether the power conferred by paragraph (1) is exercisable,<sup>[F4]</sup> the Department] may cause a local inquiry to be held.

(3) <sup>[F4]</sup>The Department] may recover from the council in default any expenses reasonably incurred by it under paragraph (1); and for the purpose of paying any such amount the council in default may—

- (a) raise money as if the expenses had been incurred directly by it as a district council; and
- (b) if and to the extent that they are authorised to do so by<sup>[F4]</sup> the Department], borrow money in accordance with the statutory provisions relating to borrowing by a district council.

- F4** 1999 c. 28

**Status:**

Point in time view as at 01/04/2007.

**Changes to legislation:**

There are currently no known outstanding effects for the The Food Safety (Northern Ireland) Order 1991, Cross Heading: Powers of Department.