



Food Safety
AUTHORITY OF IRELAND

13

GUIDANCE NOTE

Use of Enforcement Powers Under the Food Safety Authority of Ireland Act, 1998

Guidance Note No. 13

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Published by:
Food Safety Authority of Ireland
Abbey Court
Lower Abbey Street
Dublin 1

Tel:+353 1 817 1300 Fax:+353 1 817 1301
Email: info@fsai.ie Website: www.fsai.ie
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ISBN 1-904465-05-6

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I. Introduction

The Food Safety Authority of Ireland (FSAI) was established on 1st January 1999 as an independent agency to protect consumers' health by ensuring that food consumed, distributed, marketed or produced in the State meets the highest standards of food safety and hygiene. From 5th July 1999, the Authority assumed responsibility for the enforcement of food safety legislation, which is delivered by a number of agencies via service contracts with the Authority.

This document has been developed to provide the agencies with guidance on the use of enforcement powers under the Food Safety Authority of Ireland Act, 1998.

Scope

The powers are available to all officers of the official agencies and the FSAI authorised under the Act. This document describes the provisions of the Act that relate to enforcement, and the procedures that must be followed when the provisions are used. It does not specify the particular circumstances that warrant a serving of the specific enforcement notice for example, which circumstances require an Improvement Notice and which require a Closure Order - such decisions remain a matter for the professional judgement of the authorised officer in consultation with a designated officer.

Purpose

The aim is to ensure that the enforcement powers are used consistently across all the official agencies in a manner that is fully compliant with the legal requirements of the Act. This document will also assist in informing the food industry of its responsibilities and rights when the agencies use the enforcement powers. The powers provided in the Act are wide ranging, and have proved useful to the agencies and the Authority since their introduction. They include:

- Improvement Notice - which requires a food business to implement certain improvements in a specified time scale
- Closure Order - which requires the closure of a food business unless and until specific improvements are made
- Prohibition Order - which directs the withdrawal from the market of specific food products.

2. Definitions

Authorised Officer

A person appointed in writing by the Board or Chief Executive of the Authority or by an official agency which has entered into a service contract with the Authority.

Designated Officer

An officer who has been designated by the Authority for the purpose of consultations as described in Sections 52, 53 and 54 of the Food Safety Authority of Ireland Act, 1998.

Authority

The Food Safety Authority of Ireland established under the Food Safety Authority of Ireland Act, 1998 as amended.

The Board

The Board of the Food Safety Authority of Ireland.

Food Inspection

As defined in the Food Safety Authority of Ireland Act, 1998 as amended.

Improvement Notices and Orders

As defined in the Food Safety Authority of Ireland Act, 1998 as amended.

Closure Order

As defined in the Food Safety Authority of Ireland Act, 1998 as amended.

Prohibition Order

As defined in the Food Safety Authority of Ireland Act, 1998 as amended.

3. Authorisations

Appointment of authorised officers is provided for in Section 49 of the Food Safety Authority of Ireland Act, 1998:

- (1) *The Board or the chief executive may appoint in writing persons to be authorised officers for the purposes of this Act.*
- (2) *The Board or the chief executive may appoint in writing any person to be an authorised officer for a fixed period for the purposes of all or any of the provision of this Act.*
- (3) *An official agency, where it has entered into a service contract with the Board, shall appoint persons to be authorised officers for the purpose of that contract and shall, as soon as may be possible, inform the Authority of any such appointment and such persons shall have all the powers available to authorised officers under this Act while in performance of a service contract.*
- (4) *Every authorised officer appointed under this section shall be furnished by the Authority or the official agency, as the case may be, with a warrant of his or her appointment as an authorised officer and when exercising any power conferred on him or her by this section as an authorised officer shall, if requested by a person affected, produce the warrant or a copy thereof to that person.**
- (5) *An appointment under this section as an authorised officer shall cease-*
 - (a) *in the case of an appointment made by the Board or the chief executive, where the Board or the chief executive, as the case may be, revokes the appointment,*
 - (b) *in the case of an appointment made by an official agency, where the relevant service contract is determined,*
 - (c) *where it is for a fixed period, upon the expiry of that period,*

or

 - (d) *where the person appointed is an officer of an official agency or of the Authority, upon his or her ceasing to be such an officer.*

* See Standard Warrant Template in Appendix C

4. Powers of Inspection under the Food Safety Authority of Ireland Act, 1998

4.1 Powers of authorised officers

The powers of an authorised officer are detailed in Section 50 of the Food Safety Authority of Ireland Act, 1998.

Food Safety Authority of Ireland Act, 1998	Comments
<p><i>(1) Without prejudice to the provisions of any food legislation, an authorised officer may, for the purpose of obtaining any information which may be required in order to enable the Authority to exercise its functions under this Act or an official agency to exercise its functions under a service contract -</i></p>	<p>The wording sets out very general grounds for an authorised officer to exercise the powers set out in the following subsections (a) to (h).</p> <p>The powers granted to officers authorised under other food legislation may also be used.</p>
<p><i>(a) require any employee of the Authority or of an official agency, a former employee of the Authority or an official agency or any other person otherwise currently or previously retained by an official agency, or any person who carries or has carried on any trade, business or activity to which this Act relates or any person currently or previously employed in connection with that trade, business or activity to produce to him or her such records, and in the case of such information in a non-legible form to reproduce it in a permanent legible form, or to give to him or her such information, as the officer may reasonably require in relation to any entries in such records.</i></p>	<p>The officer can require specified people to:</p> <ul style="list-style-type: none"> • produce legible records • give him/her information as the officer reasonably requires. <p>The specified people include current and former employees or consultants of the Authority, the official agency or the food industry.</p>

<p><i>(b) at all reasonable times enter premises, subject to subsection (2), at which there are reasonable grounds to believe that any trade, business or activity in connection with the production, processing, disposal, manufacture, exportation, importation, storage, distribution or sale of food is, or has been, carried on, or that records in relation to such trade, business or activity are kept, and search and inspect the premises, and any records in or on the premises,</i></p>	<p>The officer can enter all premises, except private dwelling places (where a specific District Court warrant is required, see subsection 4), where there are reasonable grounds to believe that:</p> <ul style="list-style-type: none"> a. food-related activities or business are being or have been conducted, or b. that relevant records are kept. <p>Entry can be made at all reasonable times. The premises and the records can be searched and inspected.</p>
<p><i>(c) Secure for later inspection any premises or any part thereof in which such records are kept or there are reasonable grounds for believing that such records are kept.</i></p>	<p>The officer may secure a premises where records are or may be kept, (or a part of the premises).</p>
<p><i>(d) Inspect and take copies of or extracts from any such records,</i></p>	<p>The officer may inspect, take copies or extracts of relevant records.</p>
<p><i>(e) Remove and retain the said records for such period as may be reasonable for further examination,</i></p>	<p>The officer may take the records away and keep them for further examination.</p>
<p><i>(f) Require a person referred to in paragraph (a) to give to the officer any information which the officer may reasonably require in regard to the trade, business or activity or in regard to the persons carrying on such trade, business or activity or employed in connection with that trade, business or activity,</i></p>	<p>The officer may require specified people to give any relevant information about the food business or those involved in it.</p> <p>The specified people include current and former employees or consultants of the Authority, the official agency or the food industry.</p>

<p><i>(g) Require any person referred to in paragraph (a) by or on whose behalf data equipment is or has been used in relation to a business within the meaning of paragraph (b) or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the officer all reasonable</i></p>	<p>The officer may require specified people to assist with use of data equipment connected with the food business (e.g. to print out computerised records).</p> <p>The specified people include current and former employees or consultants of the Authority, the official agency or the food industry, as well as others in charge of or using the equipment.</p>
<p><i>(h) Summon, at any reasonable time, any other person being or having been an employee of the Authority or of an official agency or retained or having been retained by the Authority or an official agency or employed in connection with the trade, business or activity under examination by the Authority or by its agent, by virtue of a service contract to give to the officer any information which the officer may reasonably require in regard to that trade, business or activity and to produce to the officer any records which are in that person's power or control</i></p>	<p>The officer may summon specified people to give information on food-related industry and to produce any records held by them. The specified people include current and former employees or consultants of the Authority, the official agency or the food industry.</p>
<p>(2) <i>An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under subsection (4) authorising such entry.</i></p>	<p>If authorised officers wish to enter a private dwelling in the course of their duties, they must obtain either the consent of the occupier or a District Court warrant (see subsection 4).</p>
<p>(3) <i>An authorised officer, where he or she considers it necessary, may require a member of the Garda Síochána to assist him or her in whatever way necessary when performing any powers conferred on an authorised officer by this act which involves the breaking open of any premises or any other action in which the use of force may be necessary and is lawful and any member of the Garda Síochána so required shall unless he or she has reasonable excuse, comply with the requirement.</i></p>	<p>The role of the Garda Síochána is discussed in section 5 of this document.</p>

(4) *If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this section held in any premises, the judge may issue a warrant authorising an authorised officer, accompanied if appropriate by other authorised officers or by a member of the Garda Síochána, at anytime or times within one month from the date of issue of the warrant, on production of the warrant if so requested, to enter that premises, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised officer under this section.*

An authorised officer who has been refused access to any premises (including a private dwelling) can make a sworn statement to a District Judge that the officer believes there is relevant information held on the premises. The judge may then issue a warrant authorising the officer, with other officers and Gardaí as appropriate, to enter the premises and exercise the powers described in this section, within a month of issue of the warrant. Reasonable force may be used to enter the premises.

4.2 Additional inspections

Section 47 of the Food Safety Authority of Ireland Act, 1998 provides for additional inspections outside the scope of normal inspections under food legislation:

For the purposes of section 11, and in addition to the powers of inspection under food legislation or section 46, the Authority may, in the case of a particular circumstance identified by an authorised officer which is in the interest of food safety and hygiene, carry out or arrange to have carried out such additional inspections as it considers necessary for the discharge of its functions under this Act, and any such inspections shall as far as is practicable be carried out by or on behalf of the Authority in consultation with such persons as it considers appropriate.

The first example of the use of this Section was the Audit of Compliance with Specified Risk Materials (SRM) Orders at abattoirs, meat manufacturing and retail premises. The SRM Orders were made under the Diseases of Animals Act, 1966 and this Act was not included in the first schedule to the Food Safety Authority of Ireland Act, 1998. It was therefore not deemed as food legislation and the SRM Orders were not directly available to the Authority.*

This enabled the Authority to conduct a full scale audit of compliance with SRM Orders at domestic and export abattoirs and meat processing and retail premises. The results of this audit activity are published on a quarterly basis on the Authority's website, www.fsai.ie.

It should be noted that the powers granted by Section 47 are not available to the official agencies.

* In relation to the above example, the SRM Regulations are included in the First Schedule of the Food Safety Authority of Ireland Act, 1998 from December 2002.

5. Garda Síochána

Section 50 (3) of the Food Safety Authority of Ireland Act, 1998 provides for the following role of the Garda Síochána to support the inspection services:

An authorised officer, where he or she considers it necessary, may require a member of the Garda Síochána to assist him or her in whatever way necessary when performing any powers conferred on an authorised officer by this act which involves the breaking open of any premises or any other action in which the use of force may be necessary and is lawful and any member of the Garda Síochána so required shall unless he or she has reasonable excuse, comply with the requirement.

It is recommended that authorised officers keep a record of any occasion on which this provision is sought. The record should state the circumstances which, in the opinion of the authorised officer, justified the use of force and required the assistance of a member of the Garda Síochána.

6. Specific Powers

6.1 Introduction

Sections 52, 53 and 54 of the Act describe the enforcement mechanisms available to authorised officers. The start of the process is an inspection by an authorised officer – this may be a full programmed inspection, a programmed surveillance inspection, a follow-up inspection, a registration inspection, a response to a complaint, or an investigation of a suspected outbreak of food poisoning.

Deficiencies, structural and/or operational, are identified and the officer forms an opinion on those deficiencies. If the opinion is that there is or is likely to be a risk to public health, then an Improvement Notice may be served (see section 6.2). If the opinion is that there is or is likely to be a grave and immediate danger to public health, then a Closure Order may be served (see section 6.3 of this document). This decision will always require the application of professional judgement by the authorised officer, in consultation with a designated officer.

Distinct from these two enforcement instruments is the Prohibition Order, which covers the forced withdrawal of food products from the market. This is discussed in section 6.4 of this document.

The consultation process is covered in 6.6 and the detailed requirements of serving an Order are discussed in section 6.5. These are relevant for all Notices.

The enforcement powers conferred on authorised officers by the Act are additional to those conferred by other food legislation. The Act allows enforcement of the food legislation through the means of the Improvement Notices and Orders, Closure Orders and Prohibition Orders. However, the use of the enforcement powers of the other legislation is not precluded: specifically, prosecutions for breaches of food legislation can be brought independently of the use of the Food Safety Authority of Ireland Act, 1998 provisions (see section 7.2 of this document).

6.2 Improvement Notices and Orders (Section 52)

Food Safety Authority of Ireland Act, 1998	Comments
<i>(1) Where an authorised officer is of the opinion—</i>	
<i>(a) that at any premises (or part of a premises and including any premises on lands contiguous or adjacent to the premises) any activity which involves the handling, preparation, processing, manufacturing, distribution, storage or selling of food, or</i>	Covers operational matters, staff practices, training deficiencies, lack of food safety management systems etc., in any food premises or part of a premises (including vehicles).

<p><i>(b) that the condition of any premises (or part of a premises and including any premises or lands contiguous with or adjacent to the premises) at, in or on which these activities are carried out,</i></p>	<p>Covers cleanliness, state of repair, structural matters, etc.</p>
<p><i>is of such a nature that if it persists, it will or is likely to pose a risk to public health, the officer may, following consultations with the chief executive or such other officer of the Authority or an official agency designated in that behalf by the Board, serve, or arrange to have served, on the proprietor or person in charge a notice (“improvement notice”) signed by the officer or the chief executive or other officer of the Authority or official agency designated in that behalf by the Board, and stating that he or she is of that opinion and the notice shall—</i></p>	<p>Criteria for serving an Improvement Notice: a risk to public health.</p> <p>Requirement for authorised officer to consult a designated officer, in own agency, other agency or the Authority. Serving an Order: see section 6.6</p> <p>Notice must be signed by authorised officer or designated officer</p> <p>Notice must state that authorised officer is of the opinion (that activity or condition poses a risk to public health), and it must:</p>
<p><i>(i) identify the activity or defect in the premises (or part thereof) giving rise to the risk,</i></p>	<p>identify what’s wrong – can include identification of food legislation breached if appropriate.</p>
<p><i>(ii) require that remedial action be taken and, if appropriate, shall specify the nature or details or such remedial action,</i></p>	<p>require it to be put right</p>
<p><i>(iii) specify a time limit by which the remedial action is to be completed or implemented, and</i></p>	<p>specify by when it must be put right</p>
<p><i>(iv) shall include any other requirements as are considered necessary in the given circumstances by the authorised officer.</i></p>	<p>include any other requirement the authorised officer considers necessary – e.g., install a management system to ensure this deficiency does not recur.</p>
<p>(2) <i>An improvement notice shall be served on the proprietor or person in charge of the premises and shall be effective immediately or, as appropriate, from a date specified in the notice and the Board shall be notified at the next available meeting of the Board of any such service.</i></p>	<p>Notice can be served on owner or person in charge, e.g. manager.</p> <p>Requirement for the Authority to be notified of serving of Notice – please send Notices to the Service Contracts Division of the Authority without delay.</p>

<p>(3) <i>The chief executive or a member of the staff of the Authority or a member of the Board, authorised by the Board in this connection, may, for stated reasons, revoke or vary an improvement notice made in accordance with this section and the Board shall be notified at the next available meeting of the Board of any such revocation or variation and the reasons therefore.</i></p>	<p>Authorised Authority staff may revoke (i.e. cancel) or vary the Notice, though this must be justified to the Board of the Authority.</p> <p>The Authority will endeavour to consult with the relevant official agency in any such case.</p> <p>Correct consultation between authorised officer and designated officer prior to serving of a Notice/Order should ensure that this provision is not invoked.</p>
<p>(4) <i>Where an improvement notice is not complied with or is not complied with to the satisfaction of an authorised officer, the Authority or official agency may seek an order (“improvement order”) of the District Court addressed to the proprietor or person in charge, directing him or her to comply with the improvement notice and the order shall specify—</i></p>	<p>Non-compliance (or partial non-compliance) with the Notice should generally be followed by an Improvement Order obtained by application to a District Court Judge. A standard application form and a proposed template for the assistance of the District Court is provided in Appendix A.</p> <p>This application form should be copied to the person named in the Improvement Notice at the same time as it is sent to the court.</p> <p>It is recommended that non-compliance with an Improvement Notice be recorded in a written inspection report. Non-compliance with minor items should not necessarily result in the application for an Improvement Order. The authorised officer should exercise discretion in such situations.</p>
<p><i>(a) the remedial work to be undertaken,</i></p>	
<p><i>(b) the time limit for completion or implementation of the remedial work, and</i></p>	<p>District Judge sets a time limit, different to that in the original Improvement Notice.</p>
<p><i>(c) such other requirement, if any, as the Court may consider appropriate.</i></p>	

<p>(5) <i>An improvement order shall provide that the Authority or official agency may serve a closure order—</i></p>	<p>This information is stated in the Authority’s template for Improvement Orders – agencies should ensure businesses are aware of this provision.</p>
<p><i>(a) where the improvement order is not complied with within the time specified in the improvement order, or</i></p>	<p>A Closure Order may follow non-compliance with an Improvement Order, even with no ‘grave and immediate danger to public health’.</p> <p>It is recommended that non-compliance with an Improvement Order be recorded in a written inspection report. Non-compliance with minor items should not necessarily result in application for a Closure Order. The authorised officer should exercise discretion in such situations.</p>
<p><i>(b) where there are circumstances specified in the improvement order which arise prior to the expiry of the time limit specified in the improvement order which warrant the serving of a closure order.</i></p>	<p>At any time, a Closure Order may be served on a premises if an authorised officer considers it necessary.</p>
<p>(6) <i>Nothing in this section shall prevent the Authority or official agency from serving a closure order at any time in respect of any premises which is subject to an improvement notice if, in the opinion of an authorised officer, the circumstances require the service of a closure order.</i></p>	

A template for Improvement Notices is provided in Appendix A. The attention of those served with the Notice should be drawn to the footnotes, which state the serious consequences (potential closure and publicity) of non-compliance with the Improvement Notice.

A key parameter for the Notice is the timescale set for the remedial actions, and this should be specifically discussed in consultation with the designated officer (see section 6.5 of this document). Some of the considerations are:

- The timescale set by the authorised officer should be reasonable, consistent with the amount and nature of the remedial action required.

- Where a significant amount of work (e.g. construction work) is required, and a limit of some months is specified, then appropriate checks should be made to ensure that the business is proceeding with the work. If appropriate, the officer can specify a staged timetable for the remedial work. A Notice can specify a short timescale for some remedial actions and a longer timescale for others.
- The timescale must always be commensurate with the risk to public health posed by the on-going operation of the unsatisfactory food business.
- The Improvement Notice could specify that certain activities are restricted, e.g. that no storage of cooked foods is permitted in the premises until certain improvements have been made.

When the authorised officer is satisfied that the premises has complied with an Improvement Notice or Order, this should be recorded on the agency’s file for the premises. Appendix A contains a template for a notice to advise premises of compliance with an Improvement Notice. Should the agency wish to provide the proprietor of a food premises with written confirmation of such compliance, it is recommended that the above mentioned template be used.

6.3 Closure Orders (Section 53)

Section 53 of the Food Safety Authority of Ireland Act, 1998	Comments
<p><i>(1) Where an authorised officer is of the opinion that there is or is likely to be a grave and immediate danger to public health at, in or on any premises or part thereof or where the authorised officer is unable to establish to his or her satisfaction, due to any obstruction, the level of or the extent to which such a danger, if any, exists, the authorised officer may, following consultations with the chief executive or such other officer of the Authority or an official agency designated in that behalf by the Board, serve, or arrange to have served, on the proprietor or person in charge of the premises a notice</i></p>	<p>Establishes main criteria for a Closure Order – authorised officer considers there is or is likely to be a grave and (not or) immediate danger to public health from a food premises;</p> <p>Allows for a Closure Order where a serious obstruction prevents inspection to establish the level of danger.</p> <p>Requirement for consultation by authorised officer with designated officer</p> <p>Serving an Order: see section 6.6</p>

<p><i>(“closure order”) signed by the officer or the chief executive or other officer of the Authority or official agency designated in that behalf by the Board, stating that he or she is of that opinion, and the closure order shall, as appropriate—</i></p>	<p>Notice must be signed by authorised officer or designated officer.</p> <p>Notice must state authorised officer’s opinion (that there is a grave and immediate danger or an obstruction).</p>
<p><i>(a) state that the authorised officer is of the opinion that the premises or part thereof to which the order relates should be closed,</i></p>	<p>Allows for full or partial closures – need to define the area to be closed.</p>
<p><i>(b) specify the matters which in his or her opinion give or, as the case may be, are likely to give rise to the said risk,</i></p>	<p>Identify what is wrong at the premises.</p>
<p><i>(c) where in his or her opinion any of those matters involves or, as the case may be, will involve a contravention of any of the food legislation state that he or she is of that opinion, specify the provision or provisions as to which he or she is of that opinion, and give particulars of the reasons why he or she is of that opinion, and</i></p>	<p>Requires a statement, where food law is breached (as it would be in most cases) that this is so;</p> <p>Requires some detail on which provisions (e.g. Second Schedule of EC (Hygiene of Foodstuffs) Regulations, 2000) were contravened, and how the premises has breached them.</p>
<p><i>(d) direct that the premises be closed unless and until the matters specified in the order in pursuance of paragraph (b) and any associated contravention of provisions so specified in pursuance of paragraph (c) have been remedied.</i></p>	<p>State that the premises must remain closed until the deficiencies and the breaches of food legislation have been remedied – following a satisfactory re-inspection by an authorised officer. A standard template is provided for lifting Closure Orders.</p>
<p>(2) <i>The Board shall be notified at the next available meeting of the Board of the service of a closure order.</i></p>	<p>Requires that authorised officer informs the Authority (Service Contracts Division), without delay, that the order has been served. The Authority has a Standard Operating Procedure (SOP) for notifying the Board of Orders received from agencies.</p>

(3) A closure order shall take effect—	
(a) where the order so declares, immediately the closure order is received by the person on whom it is served,	Closure Order is effective immediately, included in the standard template for Order.
(b) in any other case—	Should not arise in most cases.
(i) where no appeal is taken against the closure order, on the expiration of the period during which such an appeal may be taken or the day specified in the closure order as the day on which it is to come into effect, whichever is the later, or	The authorised officer could specify a future date on which the Order comes into effect though this should not arise in most cases.
(ii) in case such an appeal is taken, on the day next following the day on which the closure order is confirmed on appeal or the appeal is withdrawn or the day specified in the closure order as that on which it is to come into effect, whichever is the later.	
(4) The bringing of an appeal against a closure order which is to take effect in accordance with subsection (3)(a) shall not have the effect of suspending the operation of the closure order, but the appellant may apply to the court to have the operation of the closure order suspended until the appeal is disposed of and, on such application, the court may, if it thinks proper to do so, direct that the operation of the order be suspended until the appeal is disposed of.	Where an appeal is brought against an Order, the operation of the Order is not suspended unless the premises applies successfully to the court to have the order suspended pending the appeal.
(5)	
(a) A person who is aggrieved by a closure order may, within the period of 7 days beginning on the day on which the closure order is served on him or her, appeal against the order to a judge of the District Court in the district court district in which the order was served in the prescribed manner and in determining the appeal the judge may—	The premises, has for seven days, the right to appeal the Order, to a District Court Judge.

<p><i>(i) if he or she is satisfied that in the circumstances of the case it is reasonable to do so, confirm the closure order, with or without modification, or</i></p>	<p>The judge may confirm, change or cancel the Order.</p>
<p><i>(ii) cancel the closure order.</i></p>	
<p><i>(b) Where on the hearing of an appeal under this section a closure order is confirmed, notwithstanding subsection (4) the judge of the District Court by whom the appeal is heard may, on the application of the appellant, suspend the operation of the closure order for such period as in the circumstances of the case the district judge considers appropriate.</i></p>	<p>The judge of the District Court may delay the implementation of the Closure Order even where the Order has been confirmed.</p>
<p>(6) <i>A person who appeals against a closure order or who applies for a direction suspending the application of the closure order under subsection (4) shall at the same time notify the Authority or official agency of the appeal or the application and the grounds for the appeal or the application and the Authority or official agency shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal or the application.</i></p>	<p>Persons appealing the Order, or applying for it to be suspended pending an appeal, must notify the Authority or agency of the appeal or application and the grounds for it.</p> <p>The Authority or agency is entitled to appear, be heard, and present evidence to justify the serving of the Order.</p> <p>Appeals notified to the Authority will be notified immediately to the agency concerned. Similarly, appeals notified to the official agency should be notified immediately to the Authority.</p>
<p>(7) <i>The chief executive or other person, being an employee of the Authority or member of the Board, authorised by the Board in this connection, may, for stated reasons, revoke or vary a closure order made in accordance with this section and the Board shall be notified at the next available meeting of the Board of any such revocation or variation and the reasons therefor</i></p>	<p>Authorised Authority staff may revoke (i.e. cancel) or vary the Order, though this must be justified to the Board of the Authority.</p> <p>The Authority will endeavour to consult with the relevant official agency in any such case.</p> <p>Correct consultation between authorised officer and designated officer prior to serving of Notice/Order should ensure that this provision is not invoked.</p>

(8)	Non-compliance with a Closure Order
<i>(a) Where a closure order has been served and activities are carried on in contravention of the order, the High Court may, on the application of an authorised officer, by order prohibit the continuance of the activities and order the closure of the premises.</i>	An authorised officer (generally but not necessarily the same officer who served the order) applies to the High Court for an order that prohibits the activities and orders the premises closed. Due to the serious implications and potential costs involved in a High Court action, any application to the High Court would generally be made by the Authority. (From there on, enforcement becomes a matter for the High Court.)
<i>(b) An application to the High Court for an order under this subsection shall be by motion and the Court, when considering the matter, may make such interim or interlocutory order (if any) as it considers appropriate and the order by which an application under this subsection is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.</i>	The authorised officer's application may be by motion. The High Court has discretion to make interim orders and to impose terms for payment of costs.
(9) <i>The chief executive shall, in the interests of public health and consumer protection, make such arrangements as he or she considers appropriate or necessary to bring the contents of a closure order to the attention of the public.</i>	The Authority is required to make appropriate arrangements to publicise Closure Orders, e.g. on the Authority's website, www.fsai.ie

Note that Closure Orders under Section 53 specify that premises must remain closed until further direction of the agency. This is an important consumer protection measure as otherwise a business may wish to make its own determination of when it may resume activities. An authorised officer must be satisfied that the premises no longer presents a grave and immediate danger to public health. Appendix B contains a template for lifting Closure Orders in these cases. Agencies should notify the Authority when Orders are lifted, so that this may be publicised as appropriate.

Orders remain in place unless they are lifted, following a satisfactory re-inspection. Where a premises does not remedy its deficiencies and remains closed, the Order may remain in place indefinitely.

Voluntary Closures are not covered by the Food Safety Authority of Ireland Act, 1998. These may be appropriate in some instances, if the authorised officer is satisfied that consumer protection is ensured. In the event of a Voluntary Closure, the authorised officer should obtain a statement, signed by the owner or manager of the premises, stating that they will remain closed until they receive the written permission of the agency or the Authority to reopen. A template of a Voluntary Closure Statement is included in Appendix B.

From consideration of Sections 52 and 53 of the Act, there are three scenarios for the serving of Closure Orders:

1. The premises presents a 'grave and immediate danger to public health', in the opinion of an authorised officer. This is the most common scenario for serving Closure Orders. The standard template for Closure Orders in Appendix B should be used.
2. The officer suspects a danger to public health but is unable to establish the degree of danger because of obstruction. Obstruction could include an ongoing inability to gain access to the premises despite reasonable enquiry and attempts to make contact with the proprietor. Obstruction is not defined in the Act and officers should use their discretion in concluding what constitutes an obstruction. In this case, the officer must state on the Order that it was impossible to establish the extent of the danger because of the obstruction. If such obstruction to an inspection is encountered during an inspection, the person in charge should be advised that their actions constitute an obstruction to the inspection and that a Closure Order under the Food Safety Authority of Ireland Act, 1988 would be served if such obstruction were to continue. Note that persons are obliged under Section 50 of the Act to co-operate with authorised officers, and their failure to comply with a requirement of an authorised officer constitutes an offence under the Food Safety Authority of Ireland Act, 1998 for which they may be prosecuted by the Authority (see section 6 of this document).
3. The premises has not complied with a District Judge's Section 52(4) Improvement Order. Under Section 52(5), the premises can then be served with a Closure Order, even though there may be no grave or immediate danger to public health. This has been a relatively rare occurrence, as few Improvement Notices require follow-up with Improvement Orders. A specific template is provided in Appendix B for these Closure Orders, which requires the insertion of details of the non-compliance with the Improvement Order. A copy of the Improvement Notice and Improvement Order should be attached to the Closure Order. On the basis of legal opinion obtained by the Authority, agencies are requested to consult with the Authority before serving any such Closure Order.

6.4 Withdrawal of food products (Section 54)

Section 54 of Food Safety Authority of Ireland Act, 1988	Comments
<p><i>(1) Where, as regards any activities which involve the handling, processing, disposal, manufacturing, storage, distribution or selling of food to which this section applies, an authorised officer is of the opinion that the activities involve or, are likely to involve, a serious risk to public health, the authorised officer may, following consultations with the chief executive or such other officer of the Authority or an official agency designated in that behalf by the Board, serve, or arrange to have served, on the proprietor or person in charge of the food in question a Notice (“prohibition order”) signed by the officer or the chief executive or other officer of the Authority or official agency designated in that behalf by the Board, stating that he or she is of that opinion and the prohibition order shall—</i></p>	<p>Establishes the requirement for the serving of a Prohibition Order, where the food-related activities involve a serious risk to public health – from the food in question.</p> <p>Requirement for consultation by authorised officer with designated officer</p> <p>Serving an Order: see section 6.6</p> <p>Notice must be signed by authorised officer or designated officer.</p> <p>Notice must state authorised officer’s opinion (that the activities involve a serious risk to public health) and it must:</p>
<p><i>(a) state that the authorised officer is of the opinion that a particular consignment, class, batch or item of food should be withdrawn from sale (whether or not the product is on the market for sale in the State or elsewhere),</i></p>	<p>State that authorised officer is of the opinion that specified foods (e.g. ‘Products with ‘best before’ dates between ...; ‘All foods currently in a specified premises’) should be withdrawn from sale.</p> <p>This includes exported foods, food for sale, food still on premises, etc.</p>
<p><i>(b) specify the matters which in his or her opinion give or, as the case may be, are likely to give rise to the said risk,</i></p>	<p>Specify the relevant matters (e.g. laboratory reports of contamination, hygiene deficiencies on the premises, etc.).</p>

<p>(c) <i>where in his or her opinion any of those matters involves or, as the case may be, will involve a contravention of any of the food legislation, state that he or she is of that opinion, specify the provision or provisions as to which he or she is of that opinion, and give particulars of the reasons why he or she is of that opinion, and</i></p>	<p>Requires a statement, where food law is breached (as it would be in most cases) that this is so.</p> <p>Requires some detail on which provisions were contravened and the nature of the contravention.</p>
<p>(d) <i>in respect of any or all of the following, direct the person on whom the prohibition order is served to ensure that the food—</i></p>	<p>The Order must also direct the recipient to do at least one of the following with the specified lot of food:</p>
<p><i>(i) is not used for human consumption,</i></p>	<p>- ensure it is not consumed;</p>
<p><i>(ii) is recalled from sale or distribution (whether or not the food is on sale or being or has been distributed for sale in the State or elsewhere),</i></p>	<p>- ensure it is recalled, even if exported;</p>
<p><i>(iii) as appropriate in the interests of public health, is rendered safe for human consumption or is detained or is destroyed in a manner prescribed by the authorised officer,</i></p>	<p>- ensure it is rendered safe (e.g. cooked thoroughly, treated to remove contaminants) or is detained or destroyed, as specified by the officer.</p>
<p><i>and, in the event of non-compliance or delay by the person on whom the notice has been served, an authorised officer of the Authority or official agency shall, following consultations with the chief executive or other officer of the Authority or official agency designated in that behalf by the Board, take whatever steps are considered necessary to ensure compliance with the direction given under this subsection and this may include the seizure and destruction of the products in question or the making of any arrangements for such seizure or destruction or both.</i></p>	<p>Non-compliance with Order grants extra powers to the officer.</p> <p>Requires further consultation with designated officer.</p> <p>Officer must take further action to ensure compliance with the order.</p> <p>Action can involve seizing and destroying the food or arranging for this to happen; note that the assistance of the Gardai may be requested (see section 4 of this document).</p>
<p>(2) <i>The Board shall be notified at the next available meeting of the Board of the service of a prohibition order.</i></p>	<p>The Authority (Service Contracts Division) must be notified of the Order without delay.</p>

<p>(3) <i>The chief executive shall, in the interest of public health and consumer protection, make such arrangements as he or she considers necessary or appropriate to—</i></p>	<p>The Authority is obliged to make appropriate arrangements to:</p>
<p><i>(a) bring the matter giving rise to the prohibition notice to the attention of the public,</i></p>	<p>- publicise the Order (e.g. on the website www.fsai.ie, or public recall notices)</p>
<p><i>(b) notify (by means of any agreed mechanism for doing so, where such a mechanism exists) the competent regulatory authorities in other countries where the food is on sale or is or has been distributed for sale of the prohibition order.</i></p>	<p>- notify regulators in relevant countries of the Prohibition Order. This covers such action as notifying other EU member states through the Rapid Alert System for Food and Feed (RASFF).</p>
<p>(4) <i>A prohibition order shall take effect—</i></p>	
<p><i>(a) where the order so declares, immediately the notice is received by the person on whom it is served,</i></p>	<p>The Prohibition Order is effective immediately, included in the standard template for the Order.</p>
<p><i>(b) in any other case—</i></p>	<p>Should not arise in most cases.</p>
<p><i>(i) where no appeal is taken against the prohibition order, on the expiration of the period during which such an appeal may be taken or the day specified in the prohibition order as the day on which it is to come into effect, whichever is the later, or</i></p>	
<p><i>(ii) in case such an appeal is taken, on the day next following the day on which the prohibition order is confirmed on appeal or the appeal is withdrawn or the day specified in the prohibition order as that on which it is to come into effect, whichever is the later.</i></p>	

<p>(5) <i>The bringing of an appeal against a prohibition order which is to take effect in accordance with subsection (4)(a) shall not have the effect of suspending the operation of the prohibition order, but the appellant may apply to the Court to have the operation of the prohibition order suspended until the appeal is disposed of and, on such application, the Court may, if it thinks proper to do so, direct that the operation of the prohibition order be suspended until the appeal is disposed of.</i></p>	<p>Where an appeal is brought against an Order, the operation of the Order is not suspended – unless the premises applies successfully to the court to have the order suspended pending the appeal.</p>
<p>(6)</p>	
<p><i>(a) A person who is aggrieved by a prohibition order may, within the period of 7 days beginning on the day on which the prohibition order is served on him or her, appeal against the order to a judge of the District Court in the district court district in which the prohibition order was served in the prescribed manner and in determining the appeal the judge may—</i></p>	<p>An aggrieved person has, for seven days, the right to appeal the Order, to a District Court Judge.</p>
<p><i>(i) if he or she is satisfied that in the circumstances of the case it is reasonable to do so, confirm the prohibition order, with or without modification, or</i></p>	<p>The judge may confirm, change or cancel the Order.</p>
<p><i>(ii) cancel the prohibition order.</i></p>	
<p><i>(b) Where on the hearing of an appeal under this section a prohibition order is confirmed, notwithstanding subsection (4) the judge of the District Court by whom the appeal is heard may, on the application of the appellant, suspend the operation of the prohibition order for such period as in the circumstances of the case the district judge considers appropriate.</i></p>	<p>The judge of the District Court may delay the implementation of the Order even where the Order has been confirmed.</p>

<p>(7) <i>A person who appeals against a prohibition order or who applies for a direction suspending the application of the prohibition order under subsection (5) shall at the same time notify the Authority or official agency of the appeal or the application and the grounds for the appeal or the application and the Authority or official agency shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal or the application.</i></p>	<p>Persons appealing the Order, or applying for it to be suspended pending an appeal, must notify the Authority or agency of the appeal or application and the grounds for it.</p> <p>Appeals notified to the Authority will be notified immediately to the agency concerned. Similarly appeals notified to official agency should be notified immediately to the Authority.</p> <p>The Authority or agency is entitled to appear, be heard and present evidence to justify the serving of the Order.</p> <p>Please notify the Authority of any appeals against Prohibition Orders.</p>
<p>(8) <i>The chief executive or other person, being an employee of the Authority, or member of the Board, authorised by the Board in this connection, may, for stated reasons, revoke or vary a prohibition order made in accordance with this section and the Board shall be notified at the next available meeting of the Board of any such revocation or variation and the reasons therefor.</i></p>	<p>The Authority staff may revoke (i.e., cancel) or vary the Order, though this must be justified to the Board of the Authority.</p> <p>The Authority will endeavour to consult with the relevant official agency in any such case.</p> <p>Correct consultation between authorised officer and designated officer prior to serving of Notice/Order should ensure that this provision is not invoked.</p>
<p>(9)</p>	<p>Non-compliance with Order</p>
<p>(a) <i>Where a prohibition order has been served and activities are carried on in contravention of the prohibition order, the High Court may, on the application of an authorised officer, by order prohibit the continuance of the activities.</i></p>	<p>Where the order is defied (e.g. premises continues to supply food that it has been ordered to remove from the market), the officer applies to the High Court for an order that prohibits the activities. (From there on, enforcement becomes a matter for the High Court.)</p>

(b) An application to the High Court for an order under this subsection shall be by motion and the Court, when considering the matter, may make such interim or interlocutory order (if any) as it considers appropriate and the order by which an application under this subsection is determined may contain such terms and conditions (if any) as to the payment of costs as the Court considers appropriate.

The authorised officer's application may be by motion.

The High Court has discretion to make interim Orders and to impose terms for payment of costs.

It is clear that Prohibition Orders are used to force the withdrawal of specified food from the market. They are independent of the Improvement Notice and Closure Order instruments, so may be served in scenarios where there is evidence that food is contaminated (e.g. from laboratory analysis, or from alerts issued to Ireland by other Member States under the Rapid Alert System for Food and Feed (RASFF)), but no specific deficiencies have been identified in the condition of a premises or the activities at the premises. They are sometimes used simultaneously with Improvement Notices/Closure Orders, for example, to detain or destroy produce that is on a premises with serious deficiencies in its condition or activities.

6.5 Consultation process

All of the Notices that may be issued by authorised officers require consultation with another officer who has been designated by the Board of the Authority. As the list of designated officers changes, agencies are advised to ensure that the officer with whom they consult is on the current list of designated officers. If in any doubt, please check with the Service Contracts Division of the Authority.

The consultation is intended as an important safeguard to the stringent enforcement powers that are conferred on an authorised officer. The designated officers are experienced staff, who can help ensure the correct use of the enforcement powers. A written record should be kept of the consultation, by both officers. If consultation takes place by phone, it should be similarly recorded. A template for recording the consultation is in Appendix C.

The consultation also represents a safeguard to the individual authorised officer: as it is part of the required process, it demonstrates the bona fides of the officer should there be any action or claim against the officer. In cases of litigation arising from the use of the enforcement powers, the Board of the Authority indemnifies the authorised officer against all actions or claims, provided it is satisfied that the officer has acted in a bona fide manner (Section 55 of the Act, covered in section 8 of this document).

The consultation for the purposes of the Food Safety Authority of Ireland Act, 1998 is distinct from and independent of other consultation processes that agencies may require their staff to follow. For example, an agency may wish to ensure that its senior management are consulted and advised of all enforcement action, as these may result in legal challenges. These consultation processes are not covered or precluded by the Act.

6.6 Serving of notices (Section 56 of the Act)

The requirements of Section 56 apply to all the enforcement notices (Improvement Notices and Orders, Closure Orders and Prohibition Orders).

Note that Section 56(1)(f) requires that where a Notice has been served by fax, then it must also be served by one of the other methods.

A template is provided in Appendix C for recording the details of notices that have been served by an agency. It is recommended that a copy of this record be attached to the agency's file for the premises.

Section 56 of the Food Safety Authority of Ireland Act, 1998 states:

- (1) *Any notice required to be served or given by or under this Part shall be addressed to the person concerned and served or given in one of the following ways—*
- (a) *by addressing it to the person by name and delivering it to him or her,*
 - (b) *by leaving it at the address at which the person ordinarily resides or carries on business,*
 - (c) *by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides or carries on business,*
 - (d) *if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to him or her to, that address,*
 - (e) *where the address at which the person ordinarily resides or carries on business cannot be ascertained by reasonable inquiry and notice is required to be served on, or given to, him or her in respect of any premises by delivering it to a person over the age of 16 years resident in or employed on the premises, or by affixing it in a conspicuous position on or near the premises, or*
 - (f) *where there is a facility for receiving a facsimile of the notice by electronic means at the address at which the person ordinarily resides or carries on business, by transmitting a facsimile of the notice by such means to that address, provided that the notice is also served or given in any of the other ways referred to in this subsection.*

- (2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under this Act may be addressed to “the occupier”, “the owner” or “the person in charge”, as the case may be.*
- (3) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.*
- (4) A person shall not at any time during the period 3 months after a notice is affixed under subsection (1)(e) remove, damage or deface the notice without lawful authority.*
- (5) A person who contravenes subsection (4) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 and, in the case of a continuing offence, to a further fine not exceeding £25 for each day on which the offence is continued.*

7. Prosecution of Offences

7.1 Prosecution of offences under the Food Safety Authority of Ireland Act, 1998

Section 6 of the Act provides as follows:

- (1) *Proceedings in relation to a summary offence under this Act may be brought and prosecuted by the Authority.*
- (2) *Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be commenced at any time within 12 months from the date on which evidence sufficient in the opinion of the Authority to justify initiating the proceedings comes to the Authority's knowledge not being later the 5 years from the date on which the offence concerned was committed.*

Section 50 provides as follows:

- (5) *A person who, without reasonable excuse, fails to comply with a requirement (other than a requirement subsection (3)) made by an authorised officer under this Act shall be guilty of an offence.*
- (6) *A person guilty of an offence under subsection (5) shall be liable –*
 - (a) *on summary conviction, to a fine not exceeding £1,500 or to be imprisoned for a term not exceeding 3 months or to both or*
 - (b) *on conviction on indictment, to a fine not exceeding £100,000 or to imprisonment for a term not exceeding 12 months or to both*
- (8) *A person who obstructs or interferes with an authorised officer in the exercise of his or her powers under this Act or gives an authorised officer information which the person knows to be false or misleading shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 3 months, or to both.*

7.2 Prosecution of summary offences under food legislation

Section 57 of the Food Safety Authority of Ireland Act, 1988 provides that:

- (1) *Proceeding in relation to a summary offence under any food legislation may continue to be brought and prosecuted by the official agency which had responsibility, immediately before the commencement of section 45, for the enforcement of the food legislation concerned.*
- (2) *Proceeding in relation to a summary offence under any food legislation, committed after the commencement of section 45, may be also brought and prosecuted by the Authority.*

The net effect of this section is that proceedings under food legislation will continue to be taken by the various official agencies responsible under service contract for the enforcement of that legislation. Proceedings may also be taken by the Authority directly.

8. Indemnification

Section 55 of the Food Safety Authority of Ireland Act, 1998 provides for identification of authorised officers as follows:

- (1) Where the Board is satisfied that an authorised officer or any other member of the staff of the Authority, has discharged his or her duties in pursuance of the functions of the Authority in a bona fide manner, the Board shall indemnify the authorised officer, or such member of the staff of the Authority, against all actions or claims howsoever arising in respect of the discharge by him or her of his or her duties.*
- (2) A member of the Garda Síochána shall not be liable for any loss or damage occasioned by or in the course of assisting an authorised officer in accordance with section 50(30).*

APPENDIX A

FOOD SAFETY AUTHORITY OF IRELAND ACT, 1998
IMPROVEMENT NOTICE

To: ***(name and address of the proprietor or person in charge)***

I, ***(name of authorised officer)*** being an authorised officer of the ***(name of the official agency)***, under the Food Safety Authority of Ireland Act, 1998 (“the Act”), and in exercise of the powers conferred on me by Section 52(1) of the Act, am of the opinion that (a) the condition of the premises identified hereunder,

(Insert premises name and address)

and (b) the activity thereat, involving the ***(handling, preparation, processing, manufacturing, distribution, storage or selling of food)*** are such that if they persist, will or are likely to pose a risk to public health.

I have formed my opinion on the basis of the activities and defects, listed hereunder, and identified by me in the course of an inspection of the premises undertaken on ***(inspection date)***

(Outline breaches found and if appropriate specify the nature or details of such remedial action)

I hereby require you, as proprietor or person in charge, to undertake a programme of remedial action at the above named premises, in order to eliminate the defects identified above, and to bring the premises into conformity with all food legislation. The programme of remedial action which is required to be undertaken with immediate effect, is required to be completed within a period of ***(insert time period)*** from the date of this Notice¹

Dated this day ***(insert date)***

Signed: _____ (authorised officer)

duly authorised by ***(name of official agency)*** for purposes of Section 52 of the Food Safety Authority of Ireland Act, 1998

¹In the event of failure to comply with the terms of this Notice, the Food Safety Authority of Ireland and/or ***(name of official agency)*** an official agency for the Food Safety Authority of Ireland, may seek an Order (Improvement Order) of the District Court, directing you as proprietor or person in charge to comply with the Notice.

The Authority or official agency may serve a Closure Order:

Where the Improvement Order is not complied with within the time specified in the Improvement Order, or, where there are circumstances specified in the Improvement Order which arise prior to the time limit specified in the Improvement Order which warrant the serving of a Closure Order.

Nothing in this Notice shall prevent the Authority or official agency from serving a Closure Order at any time in respect of any premises which is subject to an Improvement Notice if, in the opinion of an authorised officer, the circumstances require the service of a Closure Order.

Official agency or FSAI headed paper

FOOD SAFETY AUTHORITY OF IRELAND ACT, 1998
NOTIFICATION OF COMPLIANCE WITH IMPROVEMENT NOTICE

To: *(name and address of proprietor or person in charge)*

I *(name of authorised officer)* being an authorised officer of *(name of the official agency)* under the Food Safety Authority of Ireland Act, 1998 (“the Act”) and in exercise of the powers conferred on me by Section 53 (1) (d) of the Act, and further to an inspection carried out on *(dd, mm, yyyy)*, state that matters specified in the Improvement Notice issued by *(name of authorised officer who issued the Improvement Notice)* on *(dd, mm, yyyy)* on the premises identified in Part I of the Schedule have been complied with.

Schedule

Part I Premises

The premises occupied by *(name of proprietor or person in charge)* at *(address of the premises)*

Dated this day *(insert date)*:

Signed _____ (authorised officer)

Duly authorised by *(name of official agency)* for the purposes of Section 53 of the Food Safety Authority of Ireland Act, 1998

**NOTICE OF APPLICATION FOR IMPROVEMENT ORDER
TO DISTRICT COURT**

To: District Justice: _____ Date: _____

of Court District: _____

with regard to the following premises:

Name of premises: _____

Address: _____

I, _____, a duly authorised officer under the Food Safety Authority of Ireland Act, 1998, hereby apply for an **Improvement Order** in respect of the Improvement Notice* served on the above mentioned premises under Section 52 of the abovementioned Act on the :

(insert date) _____

Signed: _____ Name of organisation: _____ Date: _____

authorised officer

Print name: _____

Copied to person named in Improvement Notice

• Please see attached documentation

ORDER OF THE DISTRICT COURT
IMPROVEMENT ORDER

District Court Area of

District No.

To: *(insert name of proprietor or person in charge)*

of: *(insert address)*

Following application to this Court by the Food Safety Authority of Ireland or an official agency thereof, **IT IS HEREBY ORDERED BY THE COURT THAT YOU ARE DIRECTED** to comply with the Improvement Notice relating to *(insert premises name & address)* dated the *(insert date)* issued to you by *(name of authorised officer)* being an authorised officer of the *(name of official agency)* under the powers conferred on him/her by Section 52 of the Food Safety Authority of Ireland Act, 1998 (“the Act”) **YOU ARE FURTHER DIRECTED** to carry out the following:

- (a) *(outline the remedial works to be completed) (as per Improvement Notice)*
- (b) *(outline other requirements, if any, as the court may consider appropriate)*
(This is a matter for the Court)

to be completed by *(specify the date)*.

BY ORDER OF THE DISTRICT COURT

NOTE THAT:

1. The Authority or official agency may serve a Closure Order where this Improvement Order is not complied with within the time specified in this Improvement Order or, where there are circumstances specified in this Improvement Order which arise prior to the expiry of the time limit specified in this Improvement Order which warrant the serving of a Closure Order;
2. The Authority or official agency may serve a Closure Order at any time in respect of any premises which is subject to an Improvement Notice if, in the opinion of an authorised officer, the circumstances require the service of a Closure Order;
3. For convenience, a true copy of the Improvement Notice dated *(insert date)* is attached.

Signed by _____
Judge of the District Court

Dated this day the *(insert date)*

APPENDIX B

FOOD SAFETY AUTHORITY OF IRELAND ACT, 1998

CLOSURE ORDER (post Improvement Order)

To: *(name and address of the proprietor or person in charge)*

I, *(name of authorised officer)* being an authorised officer of the *(name of the official agency)* under the Food Safety Authority of Ireland Act, 1998 (“the Act”), and in exercise of the powers conferred on me by Sections 52(5) and 53 of the Act, hereby direct that the premises identified in Part 1 of the Schedule be closed with immediate effect until the earliest of:

- (i) an Order to contrary effect by a Court of competent jurisdiction; or
- (ii) further written direction by the *(name of official agency)*.

I make this order for the particular reasons set out in Part 2 of the Schedule.

Schedule

Part 1 Premises

The premises occupied by *(name of the proprietor)* at *(address of the premises)*

Part 2 Particular reasons for making of Order

The proprietor was served with an Improvement Notice under Section 52 of the Act by *(name of official agency)* on *(date of Improvement Notice)*. The proprietor was served with an Improvement Order of the District Court on *(date of Improvement Order)* under Section 52(4) of the Act, following significant non-compliance with the Improvement Notice. The Improvement Order has not been complied with within the timeframe specified in the Improvement Order, in the following particulars:

(Details of non-compliance with the Improvement Order)

Dated this day *(insert date)*

Signed: _____ *(authorised officer)*

duly authorised by *(name of official agency)* for purposes of Sections 52(5) and 53 of the Food Safety Authority of Ireland Act, 1998.

Note: Under Section 53(5) of the Food Safety Authority of Ireland Act, 1998, a person who is aggrieved by a Closure Order may, within the period of seven days beginning on the day on which the Closure Order is served on him or her, appeal against the Order to a Judge of the District Court in the District Court District in which the Order was served.

FOOD SAFETY AUTHORITY OF IRELAND ACT, 1998
CLOSURE ORDER

To: *(name and address of the proprietor or person in charge)*

I, *(name of authorised officer)* being an authorised officer of the *(name of the official agency)* under the Food Safety Authority of Ireland Act, 1998 (“the Act”), and in exercise of the powers conferred on me by Section 53 of the Act, hereby direct that the premises identified in Part 1 of the Schedule be closed with immediate effect until the earliest of:

- (i) an Order to contrary effect by a court of competent jurisdiction; or
- (ii) further written direction by the *(name of official agency)*.

I make this order being of the opinion that there is or is likely to be a grave and immediate danger to public health at, in or on the said premises for the particular reasons set out in Part 2 of the Schedule.

Schedule

Part 1 Premises

The premises occupied by *(name of the proprietor)* at *(address of the premises)*

Part 2 Particular reasons for making of Order

Dated this day *(insert date)*

Signed: _____ *(authorised officer)*

duly authorised by *(name of official agency)* for purposes of Section 53 of the Food Safety Authority of Ireland Act, 1998.

Note: Under Section 53(5) of the Food Safety Authority of Ireland Act, 1998, a person who is aggrieved by a Closure Order may, within the period of seven days beginning on the day on which the Closure Order is served on him or her, appeal against the Order to a Judge of the District Court in the District Court District in which the Order was served.

FOOD SAFETY AUTHORITY OF IRELAND ACT, 1998

PROHIBITION ORDER

To: **(name and address of the proprietor or person in charge)**

I, **(name of authorised officer)**, being an authorised officer of the **(name of official agency)** under the Food Safety Authority of Ireland Act, 1998 (“the Act”), and in exercise of the powers conferred on me by Section 54 of the Act, hereby direct that the **(insert as relevant: a particular consignment, class, batch or item of food)** identified in Part 1 of the Schedule be withdrawn from sale with immediate effect.

I make this Order being of the opinion that the activities (handling, processing, disposal, manufacturing, storage, distribution or selling of food) involve or, are likely to involve, a serious risk to public health from the said **(insert as relevant: particular consignment, class, batch or item of food)** for the particular reasons set out in Part 2 of the Schedule.

I direct **(the person on whom the Order is served)** to ensure that the food **(insert any/all of (i), (ii), (iii) as appropriate)**

- (i) (is not used for human consumption)**
- (ii) (is recalled from sale or distribution (whether or not the food is on sale or being or has been distributed for sale in the State or elsewhere)),**
- (iii) (is rendered safe for human consumption or is detained or is destroyed in a manner prescribed by (name of authorised officer), authorised officer)**

Schedule

**Part 1 Insert relevant heading (particular consignment, class, batch or item of food)
(Identify product)**

Part 2 Particular reasons for making of Order

- Specify the matters, which in the authorised officer's opinion give or, as the case may be, are likely to give rise to the said risk
- Also where in his or her opinion any of those matters involves or as the case may be, will involve a contravention of any of the food legislation,
 - state that he or she is of that opinion,
 - specify the provision or provisions as to which he or she is of that opinion,
 - give particulars of the reasons why he or she is of that opinion.

Dated this day **(insert date)**

Signed: _____ **(authorised officer)**

duly authorised by the Food Safety Authority of Ireland for purposes of Section 54 of the Food Safety Authority of Ireland Act, 1998.

Note: Under Section 54(6) of the Food Safety Authority of Ireland Act, 1998, a person who is aggrieved by a Prohibition Order may, within the period of seven days beginning on the day on which the Prohibition Order is served on him or her, appeal against the Order to a Judge of the District Court in the District Court District in which the Order was served.

Official agency or FSAI headed paper

LIFTING OF A CLOSURE ORDER

I ***(insert name of authorised officer lifting the Closure Order)*** an authorised officer under the Food Safety Authority of Ireland Act, 1998 acting under Section 53 (1) (d) of that Act and further to an inspection carried out on, ***(insert dd, mm, yyyy)*** state that the matters following specified in the Closure Order issued by ***(insert own name or name of authorised officer who issued the Closure Order where different)*** on ***(insert dd, mm, yyyy)*** on ***(insert name of premises)*** and addressed to ***(insert name of person Closure Order addressed to)*** have been remedied to my satisfaction and hereby direct that the Closure Order referred to above is hereby lifted on ***(insert dd, mm, yyyy)***.

Signed ***(signature of authorised officer)***: _____

Print name: _____

Date: _____

Headed note paper of premises (if available)

VOLUNTARY CLOSURE STATEMENT

I (***name & title***), further to the inspection carried out on (***dd, mm, yyyy***), at the following food premises:

Details of food premises: _____

hereby agree to the:
(tick appropriate box)

- Voluntary Closure of food premises detailed above
- Voluntary Closure of a specified area of the food premises detailed above.

Details of specified area: _____

- Voluntary Cessation of specified activities within the food premises detailed above.

Details of specified activities: _____

I confirm that no activities in contravention of this statement will take place until I receive written approval to recommence such activities, from the Food Safety Authority of Ireland or an official agency.

Signed: _____ Date: _____

Print name: _____

Signed in my presence

Signed: _____ Date: _____

(officer authorised under the Food Safety Authority of Ireland Act, 1998)

Print name: _____

Official agency or FSAI headed paper

LIFTING OF A VOLUNTARY CLOSURE STATEMENT

To: ***(Name and address of proprietor)***

Re. ***(Premises)***

I ***(insert name of authorised officer lifting the Voluntary Closure Order)*** an authorised officer under the Food Safety Authority of Ireland Act, 1998 further to an inspection carried out on, ***(insert dd, mm, yyyy)*** hereby agree to the recommencing of activities ceased on foot of the Voluntary Closure Statement signed by ***(insert name of signatory)*** on ***(insert dd, mm, yyyy)*** on ***(insert name of premises)*** and addressed to ***(insert name of person as detailed in Voluntary Closure Statement)***.

Signed ***(signature of authorised officer)***: _____

Print name: _____

Date: _____

APPENDIX C

NAME OF AGENCY
RECORD OF ENFORCEMENT ACTION

Type of Notice/Order served:

- Improvement Notice (Section 52)
- Improvement Order applied for (Section 52)
- Closure Order (Section 53)
- Prohibition Order (Section 54)

Proprietor: _____

Name of premises: _____

Address: _____

Time and date of inspection: _____

Designated officer: _____

Time and date of consultation: _____

Time and date of service of Notice: _____

Means of service: _____

Notice served by: _____

Signed: _____ (*authorised officer*) Date: _____

Order/Notice Lifted

Signed: _____ Date: _____

Notice sent to proprietor Yes/No Date: _____

(Current Warrant in Service Contracts)

WARRANT OF APPOINTMENT OF AN AUTHORISED OFFICER

The bearer of this Warrant,, whose signature is set forth below is appointed pursuant to an Instrument in writing executed by the **(name of official agency as defined in the Food Safety Authority of Ireland Act, 1998)** which has concluded a service contract with the Food Safety Authority of Ireland,

- in exercise of the power conferred on it by Section 49 of the Food Safety Authority of Ireland Act, 1998 for the purposes of exercising the powers set forth in the Food Safety Authority of Ireland Act, 1998 therein conferred on an authorised officer.

This warrant is the property of the **(name official agency as defined in the Food Safety Authority of Ireland Act, 1998)** and may be withdrawn or revoked.

Dated this day of

Present when the seal of the **(name of official agency as defined in the Food Safety Authority of Ireland Act, 1998)** was affixed hereto:

Signed by the said:



Food Safety Authority of Ireland
Abbey Court, Lower Abbey Street,
Dublin 1

Údarás Sábháilteachta Bia na hÉireann
Cúirt na Mainistreach, Sráid na Mainistreach Íocht.,
Baile Átha Cliath 1

Telephone: +353 1 817 1300

Facsimile: +353 1 817 1301

E-mail: info@fsai.ie

Website: www.fsai.ie

ISBN 1-904465-05-6

