

STATUTORY INSTRUMENTS

S. I. No. 700 of 2004

District Court (Food Safety) Rules, 2004

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District Court (Food Safety) Rules 2004

The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act, 1924, section 72 of the Courts of Justice Act, 1936, section 17 of the Interpretation Act, 1937 [as applied by section 48 of the Courts (Supplemental Provisions) Act, 1961] and section 34 of the Courts (Supplemental Provisions) Act, 1961, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the following rules of court:-

1. These rules may be cited as the District Court (Food Safety) Rules 2004.
2. These rules shall come into operation on the 14th day of November 2004 and shall be read together with all other District Court rules for the time being in force.
3. The District Court Rules 1997 (S.I. No.93 of 1997) shall be amended by the insertion immediately following rule 15 of Order 34 of the following:

Warrant - Under the Food Safety Authority of Ireland Act 1998

16 (1). *An application to the District Court for the issue of a warrant pursuant to sub-section (4) of section 50 of the Food Safety Authority of Ireland Act 1998 may be made to the Judge of the District Court for the District Court District wherein the premises in respect of which the warrant is sought is situated.*

(2). *Such application shall be by the information on oath and in writing in the Form 34.35 Schedule B of an authorised officer. A warrant issued on foot of such information shall be in the Form 34.36 Schedule B”.*

4. The District Court Rules 1997 (S.I. No. 93 of 1997) shall be amended by the insertion immediately following Order 96 of the following:

“Order 96A

Food Safety

1. In this Order-

“the Act” means the Food Safety Authority of Ireland Act 1998 (No. 45 of 1998);

the expressions “authorised officer”, “Authority”, “improvement notice”, and “official agency” shall have the meanings given to each of them by the Act.

2. (1). *An application by or on behalf of the Authority or an official agency for an improvement order pursuant to sub-section (4) of Section 52 of the Act may*

be made to any sitting of the Court for the court district in which are situated the premises which are the subject of an improvement notice served on a proprietor or person in charge of a premises pursuant to sub-section (1) of Section 52 of the Act.

(2). Such application shall be by notice of application in the Form 96A.1, Schedule C and shall be served on or given to the proprietor or person in charge of the premises by the applicant not later than seven days before the date of the sitting for which the application is returnable. Such notice may be served or given -

- (a) by addressing it to the proprietor or person in charge of the premises by name and delivering it to him or her,*
- (b) by leaving it at the address at which the proprietor or person in charge of the premises ordinarily resides or carries on business,*
- (c) by sending it by post in a prepaid registered letter addressed to the proprietor or person in charge of the premises 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 proprietor or person in charge of the premises, 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 proprietor or person in charge of the premises ordinarily resides or carries on business cannot be ascertained by reasonable inquiry, 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 proprietor or person in charge of the premises 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 sub-rule.*

(3) The original notice, together with a statutory declaration as to service thereof shall be lodged with the Clerk at least two days before the said date of hearing.

(4) An order made pursuant to sub-section (4) of Section 52 of the Act on such application shall be in the Form 96A.2, Schedule C”.

5. The Forms numbered 34.35 and 34.36 in Schedule 1 hereof shall be added to the Forms in Schedule B of the District Court Rules 1997 (S.I. No. 93 of 1997). The Forms numbered 96A.1 and 96A.2 in Schedule 2 hereof shall be added to the Forms in Schedule C of the District Court Rules, 1997 (S.I. No. 93 of 1997).

Schedule 1

Schedule B
O. 34, r.16

NO. 34.35

FOOD SAFETY AUTHORITY OF IRELAND ACT 1998

SECTION 50(4)

INFORMATION FOR ISSUE OF WARRANT

**District Court Area of
No.**

District

THE INFORMATION OF

.....

of.....

WHO SAYS ON OATH-

I am an authorised officer appointed under section 49 of the above-mentioned Act.

I believe that there are reasonable grounds for suspecting that there is information required by an authorised officer under section 50 of the above-mentioned Act held in premises, namelyat..... in the Court (area and) district aforesaid.

The basis for my so believing is as follows-

And I hereby apply for the issue of a warrant under sub-section (4) of section 50 of the said Act in respect of the said premises.

Signed.....

Informant

SWORN before me this day of 20

at.....

Signed
Judge of the District Court

Schedule B
O. 34, r.16

NO. 34.36

FOOD SAFETY AUTHORITY OF IRELAND ACT 1998

SECTION 50(4)

SEARCH WARRANT

**District Court Area of
No.**

District

WHEREAS from the information on oath and in writing sworn before me on this day pursuant to subsection (4) of section 50 of the above-mentioned Act by of..... an authorised officer appointed under section 49 of the above mentioned Act,

I AM SATISFIED THAT there are reasonable grounds for suspecting that there is information required by an authorised officer under section 50 of the said Act held in premises, namely atin the court (area and district) aforesaid,

THIS IS TO AUTHORISE..... of an authorised officer appointed under section 49 of the above-mentioned Act accompanied if appropriate by other authorised officers or by a member of the Garda Siochana, at any time or times within one month from the date of issue of this warrant, on production if so requested of this warrant, to enter if need be by reasonable force the said premises, namely.....in the court (area and) district aforesaid, and exercise all or any of the powers conferred on an authorised officer under section 50 of the said Act.

Dated and issued this day of 20

Signed.....
Judge of the District Court

To:.....

96A.1

FOOD SAFETY AUTHORITY OF IRELAND ACT 1998, Section 52

NOTICE OF APPLICATION

District Court Area of
District No.

.....

...

Applicant

.....

....

Respondent

WHEREAS an improvement notice pursuant to sub-section (1) of section 52 of the above-named Act was served on you, the above-named respondent, as proprietor or person in charge of premises at..... in court (area and) district aforesaid on..... 20.....

AND WHEREAS

- *(a) the said improvement notice has not been complied with
- *(b) the said improvement notice has not been complied with to the satisfaction of an authorised officer

TAKE NOTICE that an application will be made the sitting of the District Court to be held aton the day of 20..... at..... a.m./p.m. for an order under sub-section (4) of Section 52 of the aforesaid Act, directing you to comply with the said improvement notice.

Dated this day of 20
Signed.....
(Solicitor for the) Applicant

To. The above named respondent
Of

To the District Court Clerk,
District Court Office at.....

*delete if inapplicable

96A.2

**FOOD SAFETY AUTHORITY OF IRELAND ACT 1998, Section 52
ORDER**

District Court Area of
No.

District

.....

....

Applicant

.....

....

Respondent

WHEREAS on the application of the above-named applicant for an order directing the respondent to comply with an improvement notice pursuant to sub-section 1 of section 52 of the above-named Act served on the respondent on.....20

And the Court being satisfied that the respondent was duly served with notice of the application.

AND THE COURT BEING SATISFIED THAT

*(a) the said improvement notice has not been complied with

*(b) the said improvement notice has not been complied with to the satisfaction of an authorised officer

IT IS ORDERED AND DIRECTED that the respondent do forthwith comply with the said improvement notice. AND IT IS SPECIFIED in this order

THAT the respondent do undertake the following remedial work, namely,

THAT the respondent do complete and implement the said remedial work within the period of from the date of this order.

*THAT the respondent do comply with the following requirement(s) which the Court considers appropriate, namely,.....

The Food Safety Authority of Ireland or [specify applicant Official Agency] may serve a closure order pursuant to the above-named Act

(a) where this improvement order is not complied with within the time herein specified, or

(b) where there are circumstances specified in this improvement order which arise prior to the expiry of the time limit herein specified which warrant the serving of a closure order

Dated this day of 20

Signed.....

Judge of the District Court

[*delete as appropriate]

Given this 27th day of September 2004

Peter Smithwick Chairman

John P Brophy

Mary C Devins

Thomas E O'Donnell

Sean McMullin

Damien Colgan

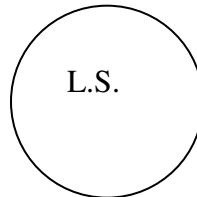
Noel Rubotham

Elizabeth Hughes Secretary

I concur in the making of the foregoing rules

Dated this 14th day of October 2004

Michael McDowell
Minister for Justice, Equality and Law Reform



L.S.

EXPLANATORY NOTE

(This note does not form part of the Instrument and does not purport to be a legal interpretation)

These Rules amend the District Court Rules, 1997 and prescribe District Court Procedures in respect of applications under the Food Safety Authority of Ireland Act 1998 in relation to information required by the Authority to exercise its functions and to non-compliance with “improvement orders”.