
STATUTORY INSTRUMENTS

1991 No. 1343

FOOD

Food Hygiene (Amendment) Regulations 1991

<i>Made</i>	- - - -	<i>5th June 1991</i>
<i>Laid before Parliament</i>		<i>14th June 1991</i>
<i>Coming into force</i>	- -	<i>5th July 1991</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales, acting jointly, in exercise of the powers conferred by sections 16(1)(c), (d) and (f) and 48(1) of the Food Safety Act 1990(1), and all other powers enabling them in that behalf, after consulting in accordance with section 48(4) of that Act with such organisations as appeared to them to be representative of interests likely to be substantially affected by these Regulations, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Food Hygiene (Amendment) Regulations 1991, and shall come into force on 5th July 1991.

Amendment of the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966 and the Food Hygiene (General) Regulations 1970

2.—(1) In regulation 2(1) of the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966(2), after the definition of “preparation” there shall be inserted the following—

““railway” means a railway having a gauge of 350 millimetres or more used for the purpose of public transport of passengers, but does not include—

- (a) a tramway;
- (b) a railway laid on a beach or pier; or
- (c) a railway providing communication between the top and bottom of a cliff;”.

(2) Regulation 12 of the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966 shall be amended in accordance with the provisions of Schedule 1 to these Regulations.

(1) 1990 c. 16. Section 4(1) provides a definition of “the Ministers” which is relevant to the powers being exercised in the making of these Regulations.
(2) S.I.1966/791; the relevant amending instrument is S.I. 1990/1431.

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(3) Regulation 27 of the Food Hygiene (General) Regulations 1970(3) shall be amended in accordance with the provisions of Schedule 2 to these Regulations.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this 4th day of June 1991.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health.

Stephen Dorrell
Parliamentary Under Secretary of State,
Department of Health

5th June 1991

David Hunt
Secretary of State for Wales

5th June 1991

SCHEDULE 1

Regulation 2(2)

AMENDMENTS TO REGULATION 12 OF THE FOOD HYGIENE
(MARKETS, STALLS AND DELIVERY VEHICLES) REGULATIONS 1966

1. In paragraph (1) for “is any” there shall be substituted “is of any”.
2. In paragraph (1)(g) for “fish and” there shall be substituted “fish or” and for “or vegetables” there shall be substituted “, or vegetables or cheese or any combination thereof”.
3. For paragraph (1)(k) there shall be substituted—
 - “(k) cakes containing cream or anything used as a substitute for cream.”.
4. In paragraph (2)(a) for “or milk”, there shall be substituted “, milk or cheese”, and for “introduced into the products” there shall be substituted “in the products (other than in any filling in such products)”.
5. After paragraph (2)(a) there shall be inserted the following paragraph—
 - “(aa) filled cooked pastry products where—
 - (i) they are relevant foods by reason only of the use of egg or egg and milk;
 - (ii) the products are intended for sale within 24 hours of their production; and
 - (iii) the products are not cut after the conclusion of preparation;”.
6. In paragraph (3) after “paragraphs” there shall be inserted “(3A), (3B),”.
7. After paragraph (3) there shall be inserted the following paragraphs—
 - “(3A) For the purposes of this regulation, the preparation of relevant food which is of any of the descriptions specified in paragraph (1)(g) or (h) or a filled cooked pastry product the filling of which principally comprises a combination of egg and milk, but also contains other relevant food, shall be treated as concluded when its baking is concluded.
 - “(3B) For the purposes of this regulation the preparation of relevant food of the description specified in paragraph (1)(k) shall be treated as concluded when the cream or substitute for cream is added.”.
8. For paragraph (7) there shall be substituted the following paragraph—
 - “(7) The provisions of paragraphs (3), (5) and (6) of this regulation do not apply to relevant food—
 - (a) in any market premises, stall or delivery vehicle, for a period of two hours from the conclusion of preparation if it is intended—
 - (i) to be sold within that period having been subjected during that period to any process of heating the purpose of which is to maintain the food at a temperature between the specified temperature and 63°C; or
 - (ii) to be reheated to at least 63°C at any time prior to sale;
 - (b) in any market premises, stall or delivery vehicle, for a period of four hours from the conclusion of preparation if it is not to be subjected to any process of heating the purpose of which is to maintain the food at a temperature between the specified temperature and 63°C between the conclusion of preparation and the time of sale; or
 - (c) displayed for a period not exceeding four hours at any market premises or stall where such display is for the purpose either—
 - (i) of indicating to prospective purchasers the nature of food which is for sale at those premises or that stall for immediate consumption, or

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(ii) of having it available for service to a purchaser at those premises or that stall for immediate consumption,
provided that in either case no more food is displayed than is reasonably necessary for that purpose.”.

9. After paragraph (7) there shall be inserted the following paragraph—

“(7A) After the expiry of the period specified in paragraph (7)(a), relevant food which has been subjected to heating as specified in paragraph (7)(a)(i) shall not be sold or offered or exposed for sale.”.

10. After paragraph (10) there shall be added the following paragraphs—

“(11) The requirements of paragraph (5) shall not apply until 1st April 1992 to relevant food in a delivery vehicle used exclusively for the delivery of food to an aircraft for consumption on board the aircraft.

(12) This regulation shall not apply until 1st April 1992 to food which is in a carriage on a railway, and is intended for sale to persons travelling on the railway.

(13) This regulation shall not apply to relevant food while it is in the course of conveyance by post or by a private or common carrier to the ultimate consumer within the meaning of the Food Labelling Regulations 1984(4).

(14) Subject to paragraph (15), this regulation shall not apply to relevant food of any of the descriptions specified in paragraph (1)(g), (h) or (k) or filled cooked pastry products the filling of which principally comprises a combination of egg and milk but also contains other relevant food, in any market premises, stall or delivery vehicle for a period of two hours from the conclusion of preparation.

(15) Where the process of bringing a food to the specified temperature is begun, but not completed, before the expiry of the period of two hours specified in paragraph (14), the period shall be treated as extended for so long as is reasonably necessary to bring the food to that temperature.”.

SCHEDULE 2

Regulation 2(3)

AMENDMENTS TO REGULATION 27 OF THE FOOD HYGIENE (GENERAL) REGULATIONS 1970

1. In paragraph (1)(b) for “containing” there shall be substituted “comprising or containing”.
2. In paragraph (1)(g) for “meat, fish,” there shall be substituted “meat, fish or”, for “vegetables” there shall be substituted “vegetables or cheese or any combination thereof”, for “consumed” there shall be substituted “sold” and for “preparation” there shall be substituted “their production”.
3. In paragraph (1)(h) for “consumed” there shall be substituted “sold” and for “preparation” there shall be substituted “their production”.
4. For paragraph (1)(k) there shall be substituted—

“(k) cakes containing cream or anything used as a substitute for cream.”.
5. In paragraph (2)(a) for “or milk” there shall be substituted “, milk or cheese” and for “introduced into the products” there shall be substituted “in the products (other than in any filling in such products)”.

(4) S.I. 1984/1305, to which there are amendments not relevant to this definition.

6. After paragraph (2)(a) there shall be inserted the following paragraph—
- “(aa) filled cooked pastry products where—
- (i) they are relevant foods by reason only of the use of egg or egg and milk;
 - (ii) the products are intended for sale within 24 hours of their production; and
 - (iii) the products are not cut after the conclusion of preparation;”.

7. For paragraph (3) there shall be substituted the following paragraph—

“(3) Subject to paragraphs (3A), (3B), and (4), the provisions of this regulation shall not apply to relevant food in any food room—

 - (a) for a period of two hours from the conclusion of preparation, if it is intended—
 - (i) to be sold within that period having been subjected during that period to any process of heating the purpose of which is to maintain the food at a temperature between the specified temperature and 63°C; or
 - (ii) to be reheated to at least 63°C at any time prior to sale;
 - (b) for a period of four hours from the conclusion of preparation if it is not to be subjected to any process of heating the purpose of which is to maintain the food at a temperature between the specified temperature and 63°C between the conclusion of preparation and the time of sale; or
 - (c) displayed for a period not exceeding four hours on catering premises where such display is for the purpose either—
 - (i) of indicating to prospective purchasers the nature of food which is for sale for consumption on those premises, or
 - (ii) of having it available for service to a purchaser for consumption on those premises,provided that in either case no more food is displayed than is reasonably necessary for that purpose.”.

8. After paragraph (3) there shall be inserted the following paragraphs—

“(3A) For the purposes of this regulation, the preparation of relevant food which is of any of the descriptions specified in paragraph (1)(g) or (h) or a filled cooked pastry product the filling of which principally comprises a combination of egg and milk, but also contains other relevant food, shall be treated as concluded when its baking is concluded.

(3B) For the purposes of this regulation, the preparation of relevant food of the description specified in paragraph (1)(k) shall be treated as concluded when the cream or substitute for cream is added.

(3C) After the expiry of the period specified in paragraph (3)(a), relevant food which has been subjected to heating as specified in paragraph (3)(a)(i) shall not be sold or offered or exposed for sale.

(3D) Subject to paragraph (3E), this regulation shall not apply to relevant food of any of the descriptions specified in paragraph (1)(g), (h) or (k) or filled cooked pastry products the filling of which principally comprises a combination of egg and milk but also contains other relevant food, in any food room, for a period of two hours from the conclusion of preparation.

(3E) Where the process of bringing a food to the specified temperature is begun but not completed, before the expiry of the period of two hours specified in paragraph (3D), the period shall be treated as extended for so long as is reasonably necessary to bring the food to that temperature.”.

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9. For paragraph (4) there shall be substituted the following paragraph—

“(4) The provisions of this regulation shall not apply to relevant food in any food room which is in any catering premises and is intended for consumption on those premises if the process of service of such food is intended to be commenced—

- (a) within 2 hours of the conclusion of preparation if it is intended that the food be reheated to at least 63°C prior to the commencement of the process of service;
- (b) within 4 hours of the conclusion of preparation if the food is not to be subjected to any process of heating the purpose of which is to maintain the food at a temperature between the specified temperature and 63°C between the conclusion of preparation and the intended commencement of the process of service.”.

10. After paragraph (9) there shall be added the following paragraph—

“(10) This regulation shall not apply to relevant food while it is in the course of conveyance by post or by a private or common carrier to the ultimate consumer within the meaning of the Food Labelling Regulations 1984(5).”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966 and the Food Hygiene (General) Regulations 1970.

Schedule 1 contains amendments to the 1966 Regulations, bringing pies and pasties containing cheese, and cakes containing cream substitutes, within the scope of the temperature controls imposed by the Food Hygiene (Amendment) Regulations 1990 (paragraphs 2 and 3). The exemptions conferred by paragraph (2) of regulation 12 of the 1966 Regulations are modified and extended by these Regulations to include pastry products where cheese is an ingredient in the pastry (paragraph 4) and custard tarts if they are to be sold on the day of their production (paragraph 5).

The conclusion of preparation of a filled pastry product, pie or pasty is defined as the conclusion of baking, and the conclusion of preparation of a cream cake as the time of the addition of the cream or substitute for cream (paragraphs 6 and 7).

The exemptions conferred by the 1990 Regulations for the display of food on catering premises are applied by these Regulations, with necessary modifications, to market premises and stalls and paragraph (7) of regulation 12 of the 1966 Regulations has been restructured accordingly (paragraph 8). That paragraph also now allows certain foods (notably oil based emulsions such as Hollandaise sauce) to be kept warm for short periods provided that any unused portion is not subsequently to be sold (paragraph 9).

Paragraph 10 confers new exemptions for food in railway carriages and in vehicles used for the delivery of food to aircraft, if prescribed conditions are met, until 1st April 1992 and an exemption for food being conveyed by post or carriers to the ultimate consumer.

(5) S.I. [1984/1305](#), to which there are amendments not relevant to this definition.

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Schedule 2 makes similar amendments to the 1970 Regulations as those made to the 1966 regulations by paragraphs (2) to (7) and (9) of Schedule 1, and also includes exemptions for food in food rooms whilst in the course of delivery to the ultimate consumer by post or carriers.