

2014 No. 2885

FOOD, ENGLAND

**The Food Safety and Hygiene (England) (Amendment)
Regulations 2014**

<i>Made</i>	- - - -	<i>29th October 2014</i>
<i>Laid before Parliament</i>		<i>7th November 2014</i>
<i>Coming into force</i>	- -	<i>13th December 2014</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred on him by section 2(2) of the European Communities Act 1972^(a).

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to food (including drink) including the primary production of food and measures relating to feed produced for or fed to food-producing animals^(b), the common agricultural policy of the European Community^(c) and measures in the veterinary and phytosanitary fields for the protection of public health^(d).

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety^(e) there has been open and transparent public consultation during the preparation and evaluation of the following Regulations.

Title and commencement

1. These Regulations may be cited as the Food Safety and Hygiene (England) (Amendment) Regulations 2014 and come into force on 13th December 2014.

Amendments to the Food Safety and Hygiene (England) Regulations 2013

2.—(1) The Food Safety and Hygiene (England) Regulations 2013^(f) are amended in accordance with paragraphs (2) to (4).

(2) In regulation 19 (offences and penalties)—

(a) 1972 c.68.
(b) S.I. 2003/2901.
(c) S.I. 1972/1811.
(d) S.I. 1999/2027.
(e) OJ No. L31, 1.2.2002, p.1, last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny—Part Four (OJ No. L188, 18.7.2009, p.14).
(f) S.I. 2013/2996, amended by S.I. 2014/2748.

- (a) in paragraph (2), for “Subject to paragraph (3)” substitute “Subject to paragraphs (3) and (3A)”;
- (b) after paragraph (3), insert the following paragraph—
 - “(3A) A person guilty of an offence under paragraph 1A or 1B of Schedule 6 is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.
- (3) In regulation 41(2) (review)—
 - (a) for “(2)”, substitute “(1)”;
 - (b) for “(3)”, substitute “(6)”.
- (4) In Schedule 6 (restrictions on the sale of raw milk intended for direct human consumption)—
 - (a) after paragraph 1, insert the following paragraphs—
 - “**1A.** Any person who sells raw milk in contravention of paragraph 7A commits an offence.
 - “**1B.** Any person who sells raw milk in contravention of paragraph 7B commits an offence.”
 - (b) after paragraph 7, insert the following paragraphs—
 - “**7A.** Subject to paragraph 7C, and except in cases to which paragraph 7B applies, the container in which any raw milk intended for direct human consumption is sold must be marked or labelled with the words “This milk has not been heat-treated and may therefore contain organisms harmful to health.
 - “**7B.** Subject to paragraph 7C, in the case of any raw milk intended for direct human consumption which is not prepacked and is sold at a catering establishment there must appear—
 - (a) on a label attached to the container in which that milk is sold, or
 - (b) on a ticket or notice that is readily discernible by an intending purchaser at the place where the purchaser chooses that milk,
 the words “Milk supplied in this establishment has not been heat-treated and may therefore contain organisms harmful to health”.
 - “**7C.** The provisions of paragraphs 7A and 7B do not apply to raw milk from buffaloes.”
 - (c) in paragraph 8—
 - (i) before the definition of “distributor”, insert the following definition—
 - ““catering establishment” means a restaurant, canteen, club, public house, school, hospital or similar establishment (including a vehicle or a fixed or mobile stall) where, in the course of a business, food is prepared for delivery to the final consumer and is ready for consumption without further preparation;”;
 - (ii) before the definition of “occupier”, insert the following definition—
 - ““labelling”, in relation to a food, includes any words, particulars, trade mark, brand name, pictorial matter or symbol relating to the food and appearing on the packaging of the food or on any document, notice, label, ring or collar accompanying the food;”;
 - (iii) after the definition of “occupier”, insert the following definition—
 - ““prepacked”, in relation to a food, means put into packaging before being offered for sale in such a way that the food, whether wholly or only partly enclosed, cannot be altered without opening or changing the packaging and is ready for sale to the final consumer or to a catering establishment, and includes a food which is wholly enclosed in packaging before being offered for sale and which is intended to be cooked without opening the packaging and which is ready for sale to the final consumer or to a catering establishment;”.

Review

- 3.—(1) The Food Standards Agency must from time to time—
- (a) carry out a review of the operation and effect of regulation 2(2) and regulation 2(4);
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Agency must, so far as is reasonably practicable, have regard to how the measures implemented by these Regulations are implemented in other Member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory provisions made by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Health.

29th October 2014

Jane Ellison
Parliamentary Under-Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations make certain amendments to the Food Safety and Hygiene (England) Regulations 2013 (S.I. 2013/2996) to make continuing provision for the labelling of raw milk intended for direct human consumption with prescribed information relating to the absence of heat treatment (*regulation 2(2) and (4)*).

2. These Regulations also correct two typographical errors in regulation 41(2) of S.I. 2013/2996 (*regulation 2(3)*).

3. These Regulations provide that the Food Standards Agency must carry out a periodic review of the operation and effect of these Regulations (*regulation 3*).

4. A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. The Explanatory Memorandum is available at www.legislation.gov.uk.

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