



## 2016 CHAPTER 3

### *Supplemental*

#### **Interpretation etc.**

**17.—(1)** In this Act—

“authorised officer” has the meaning given in section 9,

“the Department” means the Department of Health, Social Services and Public Safety,

“end of the appeal period”, in relation to a food hygiene rating, has the meaning given in section 2(6);

“establishment” means an establishment within the meaning of Regulations (EC) 852/2004 and 853/2004,

“food” has the same meaning as in [<sup>F1</sup>Regulation (EC) 178/2002],

“food business establishment” has the meaning given in section 1,

“food hygiene rating” has the meaning given in that section (but see also sections 3(10) and 4(10)),

“operator”, in relation to a food business establishment, has the meaning given in section 2,

[<sup>F2</sup>“Regulation (EC) 178/2002” means Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 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 (as amended from time to time),]

“Regulation (EC) 852/2004” means Regulation (EC) No. 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (as amended from time to time),

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“Regulation (EC) 853/2004” means Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (as amended from time to time), and

[<sup>F3</sup>“Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (as amended from time to time).]

(2) A reference in this Act to inspecting, or carrying out an inspection of, a food business establishment is (except in sections 3(9) and 4(2) and (3) where the context requires otherwise) to be read in accordance with section 1.

(3) A notification under section 2, 3 or 4 may, without prejudice to any method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954, be sent by ordinary post; and accordingly, unless the contrary is proved, a notification sent by ordinary post is to be treated as received on the day on which it would have been delivered in the ordinary course of post (with references in this Act to when a notification, or something with it, is received being read in light of this subsection).

#### Textual Amendments

- F1** Words in s. 17(1) substituted (23.12.2020) by [The Food Hygiene Rating Act \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/267\)](#), regs. 1, **2(4)(a)**
- F2** Words in s. 17(1) inserted (23.12.2020) by [The Food Hygiene Rating Act \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/267\)](#), regs. 1, **2(4)(b)**
- F3** Words in s. 17(1) substituted (23.12.2020) by [The Food Hygiene Rating Act \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/267\)](#), regs. 1, **2(4)(c)**

#### Transitional provision

**18.—**(1) The Department may by order make transitional or saving provision in connection with the commencement of a provision of this Act.

(2) An order under this section may provide that where, before the commencement of section 1, a district council has inspected an establishment

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and rated its food hygiene standards on the basis of that inspection, the council may treat that rating as the establishment's food hygiene rating until it prepares a new food hygiene rating for the establishment under this Act.

(3) An order making provision under subsection (2) must require the district council to notify the establishment's food hygiene rating to the operator of the establishment within such period as is specified; and such provision is to have effect instead of section 2(1).

(4) Where a district council has rated an establishment's food hygiene standards on more than one occasion before the commencement of section 1, the reference in subsection (2) to the rating is to the last one it carried out before the commencement of that section.

### **Regulations and orders**

**19.—**(1) Regulations or orders under this Act may contain incidental, supplementary, consequential, transitional, transitory or saving provision.

(2) No regulations shall be made under section 7(3) (online provision of ratings) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

(3) Regulations under any other provision of this Act are subject to negative resolution.

(4) No order shall be made under any of the following provisions unless a draft of the order has been laid before, and approved by a resolution of, the Assembly—

- (a) section 1(7) (power to amend definition of “food business establishment”);
- (b) section 3(12) (power to provide for a person other than a district council to hear appeals);
- (c) section 4(12) (power to limit number of requests for review of rating);
- (d) section 16(1) (power to amend time periods);
- (e) paragraph 4 of the Schedule (power to specify level of fixed penalty).

(5) An order under any other provision of this Act, other than section 21 (commencement), is subject to negative resolution.

(6) An order under section 1(7) may, in reliance on subsection (1) of this section, amend sections 7, 10 and 11 (duty to display rating, offences and fixed penalties).

### **Crown application**

**20.—**(1) This Act, and regulations and orders under it, bind the Crown to the full extent authorised or permitted by the constitutional laws of Northern Ireland, and apply in relation to Crown land as they apply in relation to other land.

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(2) No contravention by the Crown of a provision of this Act, or of regulations or an order under this Act, makes the Crown criminally liable; but the High Court may, on the application of the Department, the Food Standards Agency or a district council, declare unlawful an act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (2), this Act, and regulations and orders under it, apply to persons in the public service of the Crown as they apply to other persons.

(4) “Crown land” means land an estate in which—

- (a) belongs to Her Majesty in right of the Crown, or
- (b) belongs to a Northern Ireland department or a department of the government of the United Kingdom or is held in trust for Her Majesty for the purposes of any such department.

**Changes to legislation:**

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