
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 3

The Food Hygiene (Scotland) Regulations 2006

PART 2

MAIN PROVISIONS

Hygiene emergency prohibition notices and orders

8.—(1) If an authorised officer of an enforcement authority is satisfied that the health risk condition is fulfilled with respect to any food business, the officer may, by a notice served on the relevant food business operator (in these Regulations referred to as a “hygiene emergency prohibition notice”), impose the appropriate prohibition.

(2) If the sheriff is satisfied, on the application of such an officer, that the health risk condition is fulfilled with respect to any food business, the sheriff shall, by an order (in these Regulations referred to as a “hygiene emergency prohibition order”), impose the appropriate prohibition.

(3) Such an officer shall not apply for a hygiene emergency prohibition order unless, at least 1 day before the date of the application, the officer has served notice on the relevant food business operator of the officer's intention to apply for the order.

(4) Paragraphs (2) and (3) of regulation 7 shall apply for the purposes of this regulation as they apply for the purposes of that regulation, but as if the reference in paragraph (2) to risk of injury to health were a reference to imminent risk of injury.

(5) As soon as practicable after the service of a hygiene emergency prohibition notice, an authorised officer of an enforcement authority shall affix a copy of the notice in a conspicuous position on such premises used for the purposes of the food business as the officer considers appropriate; and any person who knowingly contravenes a hygiene emergency prohibition notice is guilty of an offence.

(6) As soon as practicable after the making of a hygiene emergency prohibition order, an authorised officer of an enforcement authority shall—

- (a) serve a copy of the order on the relevant food business operator; and
- (b) affix a copy of the order in a conspicuous position on such premises used for the purposes of the food business as the officer considers appropriate,

and any person who knowingly contravenes a hygiene emergency prohibition order is guilty of an offence.

(7) A hygiene emergency prohibition notice shall cease to have effect—

- (a) if no application for a hygiene emergency prohibition order is made within the period of 5 days beginning with the service of the notice, at the end of that period; or
- (b) if such an application is so made, on the determination or abandonment of the application.

(8) A hygiene emergency prohibition notice or a hygiene emergency prohibition order shall cease to have effect on the issue by the enforcement authority of a certificate to the effect that it is satisfied that the food business operator has taken sufficient measures to secure that the health risk condition is no longer fulfilled with respect to the food business.

(9) The enforcement authority shall issue a certificate under paragraph (8) within 3 days of it being satisfied as mentioned in that paragraph; and on an application by the food business operator for such a certificate, the authority shall—

- (a) determine as soon as is reasonably practicable and in any event within 14 days whether or not it is so satisfied; and
- (b) if it determines that it is not so satisfied, give notice to the food business operator of the reasons for that determination.

(10) Where a hygiene emergency prohibition notice is served on a food business operator, the enforcement authority shall compensate the food business operator in respect of any loss suffered by reason of compliance by the food business operator with the notice unless—

- (a) an application for a hygiene emergency prohibition order is made within the period of 5 days beginning with the service of the notice; and
- (b) the sheriff is satisfied, on the hearing of the application, that the health risk condition was fulfilled with respect to the food business at the time when the notice was served,

and any disputed question as to the right to or the amount of any compensation payable under this paragraph shall be determined by a single arbiter appointed, failing agreement between the parties, by the sheriff.

Changes to legislation:

There are currently no known outstanding effects for the The Food Hygiene (Scotland) Regulations 2006, Section 8.