
STATUTORY INSTRUMENTS

1990 No. 2463

The Food Safety (Sampling and Qualifications) Regulations 1990

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Food Safety (Sampling and Qualifications) Regulations 1990 and shall come into force on 1st January 1991.

(2) In these Regulations—

“the Act” means the Food Safety Act 1990;

“owner” means—

- (a) in the case of goods in transit, the consignor (or, if he does not have an address in Great Britain, the consignee);
- (b) in the case of goods from a vending machine—
 - (i) if the machine is marked with the name and address of its owner, and that address is in Great Britain, that person;
 - (ii) in any other case, the occupier of the premises on which the machine stands or to which it is affixed;
- (c) in any other case, the person appearing to the authorised officer to be the owner of the sample when he procured it;

“qualified” means qualified for the purposes of the Act.

(3) In these Regulations, any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations.

Sampling to which these Regulations do not apply

2. These Regulations shall not apply to any sample taken under the provisions of the Regulations listed in Schedule 1.

Qualifications of analysts

3. A person shall be qualified to be a food analyst or, subject to regulation 5(1), a public analyst if he possesses a Mastership in Chemical Analysis awarded by the Royal Society of Chemistry.

Qualifications of food examiners

4.—(1) A person shall be qualified to be a food examiner if—

- (a) he possesses a qualification listed in Part I of Schedule 2, and
- (b) subject to paragraph (2) below, he has carried out examination of food over a period or periods amounting in the aggregate to at least three years in one or more of the laboratories set out in Part II of that Schedule.

(2) In calculating the qualification period in subparagraph (1)(b) above, no account shall be taken—

- (a) of any period spent as an undergraduate in a laboratory specified in paragraphs 10 to 13 of Part II of Schedule 2, or
- (b) of any period before 1 January 1985 in a laboratory specified in paragraph 14 of Part II of Schedule 2.

Disqualifications

5.—(1) No director, owner or employee of a food business, or partner in a food business, shall act as a public analyst for the area in which such business is situated.

(2) No director, owner or employee of a food business, or partner in a food business, shall analyse or examine any sample which he knows was taken from that business.

Procedure where a sample is to be analysed

6.—(1) An authorised officer who has procured a sample under section 29 of the Act and who considers that it should be analysed shall (subject to paragraph (4) below) forthwith divide the sample into three parts.

(2) If the sample consists of sealed containers and opening them would, in the opinion of the authorised officer, impede a proper analysis, the authorised officer shall divide the sample into parts by putting the containers into three lots, and each lot shall be treated as being a part.

(3) The authorised officer shall—

- (a) if necessary place each part in a suitable container and seal each container;
- (b) mark each part or container;
- (c) as soon as it is reasonably practicable to do so, give one to the owner and give him notice that the sample will be analysed;
- (d) submit one for analysis; and
- (e) retain one for future submission under regulation 7.

(4) If the authorised officer is of the opinion that division of the sample into parts is either not reasonably practicable or likely to impede a proper analysis, he shall as soon as it is reasonably practicable to do so give to the owner notice that it will be analysed and shall submit it for analysis.

Submission of retained sample

7. An authorised officer who has retained part of the sample shall submit it to the Government Chemist (or such other food analyst as the Government Chemist may direct) for analysis if—

- (a) he and the owner so agree (which agreement may include who is to pay the analysis fees),
or
- (b) a court so orders.

Procedure where a sample is to be examined

8. An authorised officer who has procured a sample under section 29 of the Act and who considers that it should be examined shall—

- (a) if necessary place the sample in a suitable container and seal the container;
- (b) mark the sample or container;

(c) as soon as it is reasonably practicable to do so, give notice to the owner that the sample will be examined; and

(d) submit it for examination.

Certificates

9.—(1) Where a sample procured under section 29 of the Act has been analysed or examined, the owner shall be entitled on request to be supplied with a copy of the certificate of analysis or examination by the enforcement authority.

(2) The certificate given by a food analyst or examiner under section 30(6) of the Act shall be in the form set out in Schedule 3.

Revocation

10. The Public Analysts (Scotland) Regulations 1956(1) and the Public Analysts Regulations 1957(2) are hereby revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd December 1990.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Stephen Dorrell
Parliamentary Under Secretary of State for
Health

4th December 1990

David Hunt
Secretary of State for Wales

3rd December 1990

Ian Lang
Secretary of State for Scotland

4th December 1990

(1) S.I.1956/1162.

(2) S.I. 1957/273.