
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement paragraphs 4 and 5 of Chapter IX of the Annex to Council Directive [93/43/EEC](#) of 14th June 1993 on the hygiene of foodstuffs, as well as containing certain national provisions relating to food temperature control.

Regulation 2 is an interpretation provision. Regulation 3 deals with the application of these Regulations: they apply to all stages of food production except primary production, but—subject to an exception which relates to fishery products—they do not apply to the activities of food businesses which are regulated by or under the Regulations listed in regulation 3(2).

Part II of the Regulations contains the new food temperature control requirements for England and Wales. Regulation 4 contains a requirement that food which needs to be kept chilled because it is likely to support the growth of pathogenic micro-organisms or the formation of toxins must be kept either at or at below 8°C, although this does not apply to mail order food, which is the subject of a separate offence. There are certain exemptions (regulation 5), and a provision which allows for the upward variation of the standard temperature in appropriate circumstances (regulation 6(1)). Any such variation must, however, be based on a well-founded scientific assessment of the safety of the food at the new temperature (regulation 6(2)). There are also defences which relate to the tolerance periods for which food may be held outside temperature control (regulation 7).

Regulation 8 contains a requirement that food which needs to be kept hot in order to control the growth of pathogenic micro-organisms or the formation of toxins must be kept at a minimum temperature of 63°C. There are defences which allow for downward variation of this minimum temperature in appropriate circumstances and for a tolerance period of two hours (regulation 9).

Regulation 10 adds a new general temperature control requirement which prohibits keeping perishable foodstuffs at temperatures which would result in a risk to health, and regulation 11 contains a further requirement in relation to the cooling of food. Regulation 12 deals with the evidential value, in certain circumstances, of guides to good hygiene practice.

Part III contains the food temperature control requirements for Scotland. Regulations 13 to 15 re-enact with minor and drafting modifications the food temperature control requirements previously contained in the Food Hygiene (Scotland) Regulations 1959, and regulation 16 adds a new general temperature control requirement which prohibits keeping foodstuffs which are likely to support the growth of pathogenic micro-organisms or the formation of toxins at temperatures which would result in a risk to health.

Regulation 17 deals with offences and penalties, regulation 18 applies certain provisions of the Food Safety Act 1990, and regulation 19 deals with enforcement issues.

Regulation 20 is a revocations provision. The provisions revoked are listed in the Schedule to these Regulations.

An assessment of the cost to business of complying with these Regulations has been prepared and copies may be obtained from the Department of Health, Room 630B, Skipton House, 80 London Road, London SE1 6LW, or the Scottish Office Agriculture and Fisheries Department, Room 347, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TW. A copy has also been placed in the library of each of the Houses of Parliament.