
WELSH STATUTORY INSTRUMENTS

2006 No. 31

The Food Hygiene (Wales) Regulations 2006

PART 4

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Power to issue codes of recommended practice

24.—(1) For the guidance of food authorities, the National Assembly for Wales may issue codes of recommended practice as regards the execution and enforcement of the Hygiene Regulations.

(2) The Agency may, after consulting the National Assembly for Wales, give a food authority a direction requiring them to take any specified steps in order to comply with a code issued under this regulation.

(3) In exercise of the functions conferred on them by or under the Hygiene Regulations, every food authority—

- (a) must have regard to any relevant provision of any such code; and
- (b) must comply with any direction which is given under this regulation and requires them to take any specified steps in order to comply with such a code.

(4) Any direction under paragraph (2) will, on the application of the Agency, be enforceable by mandatory order.

(5) The Agency must consult the National Assembly for Wales before making an application under paragraph (4).

(6) Before issuing any code under this regulation, the National Assembly for Wales will have regard to any relevant advice given by the Agency.

Protection of officers acting in good faith

25.—(1) An officer of an enforcement authority is not personally liable in respect of any act done by him or her—

- (a) in the execution or purported execution of the Hygiene Regulations; and
- (b) within the scope of his or her employment,

if the officer did that act in the honest belief that his or her duty under the Hygiene Regulations required or entitled him or her to do it.

(2) Nothing in paragraph (1) is to be construed as relieving any enforcement authority of any liability in respect of the acts of their officers.

(3) Where an action has been brought against an officer of an enforcement authority in respect of an act done by him or her—

- (a) in the execution or purported execution of the Hygiene Regulations; but
- (b) outside the scope of or her employment,

the authority may indemnify the officer against the whole or a part of any damages which the officer has been ordered to pay or any costs which the officer may have incurred if they are satisfied that the officer honestly believed that the act complained of was within the scope of his or her employment.

(4) A public analyst appointed by a food authority will be treated for the purposes of this regulation as being an officer of the authority, whether or not the officer's appointment is a whole-time one.

Revocation and suspension of designations and appointments

26.—(1) Subject to paragraphs (2) and (3), the Agency may at any time revoke or suspend—

- (a) the appointment of an official veterinarian;
- (b) the designation of an approved veterinarian; or
- (c) the appointment of an official auxiliary,

if it appears to the Agency that the person in question is unfit to perform any of the functions of that post under the Hygiene Regulations.

(2) Where the Agency revokes or suspends a designation or appointment under paragraph (1), the Agency must, as soon as practicable, give to the person whose designation or appointment has been revoked or suspended a notice in writing of the reasons for the revocation or suspension and afford that person an opportunity of—

- (a) making representations in writing to the Agency with regard to the revocation or suspension; or
- (b) being heard by a person nominated by the Agency for the purpose pursuant to sub-paragraph (a) of paragraph (5).

(3) A notice given under paragraph (2) must inform the person to whom it is given—

- (a) of his or her right to make representations in writing;
- (b) of the manner in which and the time (not being less than 21 days from the giving of the notice) within which such representations may be made;
- (c) of his or her right to be heard; and
- (d) of the manner in which and the time (not being less than 21 days from the giving of the notice) within which he or she may apply for an opportunity to be heard.

(4) In the event of the person whose designation or appointment has been revoked or suspended making any representations (whether orally or in writing) under paragraph (3) the Agency must reconsider whether that person is unfit to perform any of the functions of the post he or she holds under the Hygiene Regulations and must, as soon as practicable, reconsider its decision to revoke or suspend the designation or appointment under paragraph (1) in the light of those representations.

(5) Where a person requests the opportunity to be heard pursuant to sub-paragraph (b) of paragraph (2)—

- (a) the Agency must nominate a person to determine the matter from the list established under paragraph (6);
- (b) the person so nominated must serve a notice on the person requesting the opportunity to be heard and the Agency informing them of the time (not being less than 21 days from the giving of the notice) of the hearing; and
- (c) the person so nominated must, within 21 days of the hearing, notify the person requesting the opportunity to be heard and the Agency of his or her decision.

(6) The Agency must establish and maintain a list of people who may be nominated for the purposes of this regulation and must consult those organisations appearing to it to represent official veterinarians, approved veterinarians and official auxiliaries before including any person on the list.

Food which has not been produced, processed or distributed in accordance with the Hygiene Regulations

27.—(1) On an inspection of any food, an authorised officer of an enforcement authority may certify that it has not been produced, processed or distributed in compliance with the Hygiene Regulations.

(2) Where any food is certified as mentioned in paragraph (1) it will be treated for the purposes of section 9 of the Act as failing to comply with food safety requirements.

(3) Where any food certified as mentioned in paragraph (1) is part of a batch, lot or consignment of food of the same class or description, all the food in the batch, lot or consignment must, until it is proved that it has been produced, processed or distributed in compliance with the Hygiene Regulations, be treated for the purposes of paragraph (2) as having been so certified.

Service of documents

28.—(1) Any document which is required or authorised under the Hygiene Regulations to be served on a food business operator may be served—

- (a) by delivering it to that person;
- (b) in the case of an incorporated company or body, by delivering it to their secretary at their registered or principal office, or by sending it in a prepaid letter addressed to the secretary at that office; or
- (c) in the case of any other food business operator, by leaving it or sending it in a prepaid letter addressed to the operator at operator's usual or last known residence.

(2) Where a document is to be served on a food business operator under the Hygiene Regulations and it is not reasonably practicable to ascertain the name and address of the person on whom it should be served, or the premises of the food business operator are unoccupied, the document may be served by addressing it to the food business operator concerned in the capacity of occupier of those premises (naming them), and—

- (a) by delivering it to some other person at the premises; and
- (b) if there is no other person at the premises to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

Bulk transport in sea-going vessels of liquid oils or fats and the bulk transport by sea of raw sugar

29. Schedule 3 (bulk transport in sea-going vessels of liquid oils or fats and the bulk transport by sea of raw sugar) has effect.

Temperature control requirements

30. Schedule 4 (temperature control requirements) has effect.

Direct supply by the producer of small quantities of meat from poultry and lagomorphs slaughtered on the farm

31. Schedule 5 (direct supply by the producer of small quantities of meat from poultry and lagomorphs slaughtered on the farm) has effect.

[^{F1}Restriction on the sale of raw milk intended for direct human consumption

32. Schedule 6 (restrictions on the sale of raw milk intended for direct human consumption) has effect.]

F1 Reg. 32 substituted (26.7.2018) by [The Food and Feed \(Miscellaneous Amendments and Revocations\) \(Wales\) Regulations 2018 \(S.I. 2018/806\)](#), regs. 1(3), **11(3)**

Special health mark

^{F2}**32A.**

F2 Reg. 32A revoked (8.8.2014) by [The Food Hygiene \(Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/1858\)](#), regs. 1(2), **2(2)**

Consequential amendments

^{F3}**33.**

F3 Reg. 33 omitted (26.7.2018) by virtue of [The Food and Feed \(Miscellaneous Amendments and Revocations\) \(Wales\) Regulations 2018 \(S.I. 2018/806\)](#), regs. 1(3), **11(4)**

Revocation

34.—(1) The Food Hygiene (Wales) Regulations 2005 are revoked.

Changes to legislation:

There are currently no known outstanding effects for the The Food Hygiene (Wales) Regulations 2006, PART 4 .