

Statutory Instrument 1991 No. 2825

The Food Premises (Registration) Regulations 1991

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STATUTORY INSTRUMENTS

1991 No. 2825

FOOD

The Food Premises (Registration) Regulations 1991

Made 13th December 1991

Laid before Parliament 16th December 1991

Coming into force in accordance with regulation 1(2)

<i>for certain purposes</i>	<i>1st February 1992</i>
<i>for certain other purposes</i>	<i>1st April 1992</i>
<i>for certain other purposes</i>	<i>1st May 1992</i>
<i>for all other purposes</i>	<i>1st July 1992</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England, and with food and health in Wales,

acting jointly in respect of England and Wales, and the Secretary of State for Scotland in respect of Scotland, in exercise of the powers conferred by sections 6(4), 16(1)(f), 19(1)(a), 26(2)(a), (b) and (c), 26(3), 45(1) and (3), 48(1) and 49(2) of the Food Safety Act 1990 ^[1] and of all other powers enabling them in that behalf, after consulting such organisations as appear to them to be representative of interests likely to be substantially affected by these Regulations in accordance with section 48(4) of that Act, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Food Premises (Registration) Regulations 1991.

(2) These Regulations shall come into force as follows:—

(a) in relation to premises other than Crown premises—

- (i) all provisions other than regulations 2, 3, 5(4) and (5), 7 and 8(1), (2), (3), (4) and (8) on 1st February 1992, and
- (ii) regulations 2, 3, 5(4) and (5), 7 and 8(1), (2), (3), (4) and (8) on 1st May 1992;

(b) in relation to Crown premises—

- (i) all provisions other than regulations 2, 3, 5(4) and (5), 7 and 8(1), (2), (3), (4) and (8) on 1st April 1992,
- (ii) regulation 5(4) and (5) on 1st May 1992, and
- (iii) regulations 2, 3, 7 and 8(1), (2), (3), (4) and (8) on 1st July 1992.

(3) In these Regulations unless the context otherwise requires—

"the Act" means the Food Safety Act 1990;

"Crown premises" means premises held or used by or on behalf of the Crown;

"domestic premises" means a dwelling house or other building used principally, but not exclusively, as a dwelling, and its curtilage;

"market" shall be construed generally and not as limited to a market held by virtue of a grant from the Crown or of prescription or under statutory authority and "controller of the market" means, in relation to a market provided by a local authority, that authority, and, in any other case, the person by whose authority premises are used within the area of the market;

"moveable premises" means premises other than permanent premises, and

"relevant moveable premises" means moveable premises, used for the transport or preparation of food or the retail sale of food on five or more days, whether consecutive or not, in any period of five consecutive weeks, other than—

- (a) motor vehicles which are constructed solely for the purpose of carrying no more than 8 passengers (including the driver) and their personal effects,
- (b) tents, or
- (c) moveable premises which are ordinarily kept outside Great Britain;

"non-retail sale" means sale otherwise than to the ultimate consumer;

"permanent premises" means any land or building;

"the register" means the register kept under regulation 5;

"registered" means registered in the register;

"registration authority" means an authority which is required by regulation 9 to enforce these regulations, and

"relevant registration authority" means, in relation to any premises, the registration authority in whose area the premises are situated;

"retail sale" means sale to the ultimate consumer;

"sale" shall be construed in accordance with section 2 of the Act, and as including possession, offer or exposure for sale, and consigning, delivering and serving by way of sale;

"supplementary record" means the record kept under regulation 6(1);
"supply" means, in relation to any food, to give it away in the course of any trade or business, and the possession, preparation, storage, offer or exposure of food for such supply and serving by way of such supply;
"tents" includes marquees, awnings and similar structures but does not include stalls;
"ultimate consumer" means the same as in regulation 2(1) of the Food Labelling Regulations 1984 [2];
"voluntary organisation" means a body the activities of which are carried on otherwise than for profit, but does not include any body exercising the functions of central or local government.

(4) Section 50 (service of documents) of the Act shall apply to the making of applications and the supply of particulars under these Regulations as it applies to the giving or serving of documents.

(5) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered regulation or Schedule is a reference to the regulation in or Schedule to these Regulations bearing that number;
- (b) in a regulation or a Schedule to a numbered paragraph is a reference to the paragraph in that regulation or Schedule bearing that number.

Prohibition on use of premises for a food business

2.—(1) Subject to paragraphs (3), (4) and (5) and to regulation 3, no person shall use any premises for the purposes of a food business on five or more days, whether consecutive or not, in any period of five consecutive weeks unless—

- (a) those premises are registered;
- (b) those premises, though not registered, are required by virtue of paragraphs (3), (4) or (5) or regulation 4(2) to be registered on the application of some other person; or
- (c) an application for those premises to be registered has been made in accordance with regulation 4 to the relevant registration authority at least 28 days before the first day of such use.

(2) Subject to paragraphs (3), (4) and (5) and to regulation 3, premises shall not be used for the purposes of two or more food businesses, whether carried on by the same or by different persons, on five or more days, whether consecutive or not, in any period of five consecutive weeks unless—

- (a) those premises are registered; or
- (b) an application for those premises to be registered has been made in accordance with regulation 4 to the relevant registration authority at least 28 days before the first day of such use.

(3) Schedule 1 shall have effect for the purposes of determining requirements for registration where relevant moveable premises are used for the purposes of a food business within the area of a market.

(4) Schedule 2 shall have effect for the purposes of determining requirements for registration where a set of permanent premises is included in another set of permanent premises.

(5) Schedule 3 shall have effect for the purposes of determining the requirements for registration where moveable premises are used for the purposes of a food

business, other than where relevant moveable premises are used within the area of a market.

Exceptions

3.—(1) Regulation 2 does not apply to premises at which the only commercial operations carried out in relation to food or food sources are one or more of the following—

- (a) killing game (Including deer) for food by way of sport or the non-retail sale of food from game killed there;
- (b) taking fish for food or the non-retail sale of food from fish taken there;
- (c) harvesting food in the course of horticulture, viticulture or arable farming, or—
 - (i) the cleaning of food harvested there,
 - (ii) the storage of food harvested there,
 - (iii) the packaging of food harvested there except in a form in which the food is to be sold by retail,
 - (iv) the non-retail sale of food harvested there;
- (d) collecting honey from bees;
- (e) the production or packing of eggs or the non-retail sale of eggs produced or packed there;
- (f) the retail sale of food by means of an automatic vending machine on those premises;
- (g) the supply of beverages, or of biscuits, potato crisps, confectionery or other similar products, ancillary to a business whose principal activity is not the sale of food;
- (h) the supply of food in the course of a religious ceremony.

(2) Subject to paragraph 6 of Schedule 3, regulation 2 also does not apply to premises used only—

- (a) as a dairy or as a dairy farm, in each case within the meaning, in relation to England and Wales, of the Milk and Dairies (General) Regulations 1959 ^[3] and, in relation to Scotland, of the Milk and Dairies (Scotland) Regulations 1990 ^[4];
- (b) in England or Wales, by a person carrying on a food business there only as a distributor within the meaning of the Milk and Dairies (General) Regulations 1959;
- (c) as a slaughterhouse within the meaning, in England and Wales, of Part I of the Slaughterhouses Act 1974 ^[5] or, in Scotland, the Slaughter of Animals (Scotland) Act 1980^[6];
- (d) as a slaughterhouse or cutting premises in respect of which a licence is required under regulation 12 of either the Poultry Meat (Hygiene) Regulations 1976 ^[7] or the Poultry Meat (Hygiene) (Scotland) Regulations 1976^[8] ;
- (e) as export cutting premises, an export cold store or a transshipment centre approved under regulation 4 of either the Fresh Meat Export (Hygiene and Inspection) Regulations 1987 ^[9] or the Fresh Meat Export (Hygiene and Inspection) (Scotland) Regulations 1987 ^[10];
- (f) as an establishment preparing meat products for export to another Member State of the European Economic Community approved in accordance with article 7 of Council Directive 77/99/EEC^[11] as amended by Council Directive 88/658/EEC ^[12]

(3) Subject to paragraph 6 of Schedule 3, regulation 2 also does not apply to—

- (a) premises controlled by a voluntary organisation or the trustees of a charity and used only for the purposes of such organisations or charities, where no food (other than dry ingredients for the preparation of beverages, sugar, biscuits, potato crisps or other similar dry products) is stored for sale;
- (b) premises at which—
 - (i) no food intended for sale for human consumption is present, and
 - (ii) no relevant moveable premises are ordinarily kept;
- (c) premises where food is—
 - (i) stored for sale, or
 - (ii) prepared for sale,and it is intended, when the food first enters those premises, that its sale is to take place only in the event of an emergency or disaster;
- (d) premises in respect of which a certificate under section 54(4) of the Act has been issued by the Secretary of State.

(4) Subject to paragraph 6 of Schedule 3, regulation 2 also does not apply to domestic premises used for the purposes of a food business if—

- (a) the proprietor of the business does not reside there, and the business does not consist of or include the peeling of shrimps or prawns;
- (b) the proprietor of the business does reside there, but the only commercial operations carried out there in relation to food or food sources are—
 - (i) the sale of food ancillary to the provision of accommodation in not more than three bedrooms, or
 - (ii) the sale, or preparation for sale of honey (wherever collected), or of horticultural or viticultural produce harvested on the premises.

Applications for registration

4.—(1) An application for premises to be registered as required by regulation 2(1) shall be made in writing to the relevant registration authority by the proprietor of the food business for the purposes of which the premises are or are to be used.

(2) An application for premises to be registered as required by regulation 2(2) shall be made in writing to the relevant registration authority by the person who permits the premises to be used for the purposes of a food business on five or more days (whether consecutive or not) in any five consecutive weeks.

(3) An application for premises to be registered as required by paragraph 5 of Schedule 3 shall be made in writing to the relevant registration authority by the proprietor of the food business for the purposes of which the premises are or are to be used because of the ordinary keeping there of relevant moveable premises.

(4) The form of application for the purposes of paragraph (1) or paragraph (3) is hereby prescribed as being that set out in Schedule 4 and the application shall contain the particulars required by that form, and shall be signed by or on behalf of the person making it.

(5) An application for the purposes of paragraph (2) shall contain the same particulars as are required by paragraphs 1, 3, 5, 8 and 9 of the form referred to in paragraph (4) and shall be signed by or on behalf of the person making it.

(6) Subject to paragraph (7), upon receipt of an application made in accordance with such of the preceding paragraphs of this regulation as apply to it the registration authority shall, unless the premises are already registered, register the premises within 28 days.

(7) Upon receipt of an application under paragraph (3), made in accordance with

paragraph (4), the registration authority shall, unless the permanent premises are already registered in respect of their use for the purposes of that business, register the premises within 28 days.

The register

5.—(1) Every registration authority shall keep a register containing particulars of the name (if any) and address of premises for which they are the relevant registration authority in respect of which the particulars required by regulation 4(4) or (5) have been furnished together with, in the case of premises required to be registered by regulation 2(1) or paragraph 5 of Schedule 3,—

- (a) the name of the business; and
- (b) particulars of the nature of the business.

(2) Where the premises to be registered are relevant moveable premises used within the area of a market, the address referred to in paragraph (1) is that at which they are ordinarily kept.

(3) The register shall be open to inspection at all reasonable times by a constable or an authorised officer of any of the authorities mentioned in section 6(4)(a) of the Act, and a copy of the register, or any entry in it, may be given or sent to a person authorised to inspect it and shall be given or sent to such a person if he reasonably requests it.

(4) The register shall be open to inspection by the public at all reasonable times, and the registration authority may give or send to any person, a copy of the register or of any entry in it.

(5) As a condition of giving or sending a copy under paragraph (4) a registration authority may impose a charge of an amount which shall be at their discretion.

Supplementary record

6.—(1) Every registration authority shall keep, in addition to but separately from the register, a supplementary record containing, for all registered premises for which it is the relevant registration authority, the particulars required by regulation 4(4) or (5) to be contained in an application for the premises to be registered.

(2) The supplementary record shall not be open to inspection by the public but shall be open to inspection at all reasonable times by a constable or by an authorised officer of any of the authorities mentioned in section 6(4)(a) of the Act, and a copy of the supplementary record, or of any entry in it, may be given or sent to a person entitled to inspect it.

Supply of information and alterations to register

7.—(1) Where there is a change of proprietor of a food business carried on at premises required, before the occurrence of the change, by regulation 2(1) or paragraph 5 of Schedule 3, to be registered the new proprietor shall, before, on or within 28 days after the date of the change, supply the relevant registration authority with the same particulars as are required by regulation 4(4) to be provided on an application for premises to be registered.

(2) Where there is a change in the nature of a food business (other than one carried on from relevant moveable premises in a market to which paragraph 2 of Schedule 1 applies) particulars of which are contained in the register under regulation 5(1)(b), the proprietor of the business shall supply the relevant registration authority with particulars of the change no later than 28 days after the date of its occurrence.

(3) The relevant registration authority shall make such alterations to the register

and to the supplementary record (including the removal of particulars relating to premises which are no longer used for the purposes of a food business) as are necessary to take account of—

- (a) any particulars supplied under paragraphs (1) or (2);
- (b) any changes which have come to its attention otherwise than under paragraphs (1) or (2).

(4) The registration authority shall not alter particulars relating to a food business under paragraph (3)(b) without having first given the proprietor of the business 28 days prior notice in writing of its intention to do so, and without having considered any representations which he makes to them within that period.

Offences

8.—(1) Any person who contravenes the provisions of regulation 2(1) shall be guilty of an offence triable summarily and liable on conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who permits premises to be used for the purposes of a food business in contravention of regulation 2(2) shall be guilty of an offence triable summarily and liable on conviction to a fine not exceeding level 3 on the standard scale.

(3) Any person who contravenes regulation 7(1) or (2) shall be guilty of an offence triable summarily and liable on conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person who contravenes the provisions of paragraph 5 of Schedule 3, shall be guilty of an offence triable summarily and liable on conviction to a fine not exceeding level 3 on the standard scale.

(5) Any person who for any purpose connected with these Regulations furnishes information which he knows to be false shall be guilty of an offence triable summarily and liable on conviction to a fine not exceeding level 5 on the standard scale.

(6) Subject to paragraph (7), any person who, otherwise than in the performance of his duty or pursuant to regulation 5 or regulation 6(2), intentionally or recklessly discloses to another person particulars supplied to a registration authority under these Regulations shall be guilty of an offence triable summarily and liable on conviction to a fine not exceeding level 5 on the standard scale.

(7) It shall be a defence for a person charged with an offence under paragraph (6) relating to disclosure of the supplementary record or of any entry in it to show that he did not know, and had no reasonable grounds to suspect, that the person to whom he disclosed the information was not a person to whom such disclosure might lawfully be made.

(8) Subsections (1), (5) and (6) of section 21 of the Act shall apply to an offence under any of paragraphs (1), (2), (3) or (4) of this regulation as they apply to an offence under any of the provisions of Part II of the Act which precede section 21.

Enforcement

9.—(1) Subject to paragraph (2) these Regulations shall be enforced—

- (a) in relation to a district in England or Wales, or a London borough, by the council of that district or borough;
- (b) in relation to the City of London and the Temples, by the Common Council;

- (c) in relation to an islands area or a district in Scotland, by the council of the islands area or district;
- (d) in relation to the Isles of Scilly, by the Council of the Isles of Scilly.

(2) In relation to premises with respect to which the functions of a food authority are assigned to a port health authority in England or Wales or a port local authority in Scotland, that port health authority or port local authority shall enforce these Regulations.

Consequential amendment and transitional provisions

10.—(1) In regulation 8(2) of the Food Hygiene (General) Regulations 1970^[13] for the words "with a food authority for the preparation of the food in question" there shall be substituted "under the Food Premises (Registration) Regulations 1991".

(2) Premises registered under section 16 of the Food Act 1984^[14] immediately before its repeal shall until 1 May 1992 be treated as registered under these Regulations for the purpose of regulation 8(2) of the Food Hygiene (General) Regulations 1970.

(3) An application for premises to be registered may be made before the commencement date in accordance with regulation 4 as though the provisions of regulations 2 and 3 were in force.

(4) In relation to premises, other than Crown premises, in respect of which an application is made by virtue of paragraph (3) more than 28 days before the commencement date, regulation 4(6) and (7) shall have effect as though for the requirement to register premises within 28 days there were substituted a requirement to register the premises as soon as is reasonably practicable, and in any event by 1st May 1992.

(5) In relation to premises registered or required to be registered in consequence of such an application, the reference in regulations 5(1) and 7(1) to premises required to be registered shall be construed as references to premises which would be required by regulation 2(1), or paragraph 5 of Schedule 3, to be registered were regulation 2 in force.

(6) In paragraphs (3) and (4) "commencement date" means—

- (a) in relation to premises other than Crown premises, 1st May 1992;
- (b) in relation to Crown premises, 1st July 1992.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this
13th day of December 1991.

John G mmer

Minister of Agriculture, Fisheries and Food

Signed by authority of the Secretary of State for Health

Stephen Dorrell

Parliamentary Under Secretary of State, Department of Health

13th December 1991

David Hunt

Secretary of State for Wales

13th December 1991

Signed by authority of the Secretary of State for Scotland

Lord Strathclyde

Parliamentary Under Secretary of State, Scottish Office

13th December 1991

Notes:

[1] 1990 c. 16. Section 4(1) provides a definition of "the Ministers" which is relevant to the powers exercised by the making of these Regulations. [back](#)

[2] S.I. 1984/1035, to which there are amendments not relevant to these Regulations. [back](#)

[3] S.I. 1959/277 to which there are amendments not relevant to these Regulations. [back](#)

[4] S.I. 1990/2507. [back](#)

[5] 1974 c. 3. [back](#)

[6] 1980 c. 13. [back](#)

[7] S.I. 1976/1209 to which there are amendments not relevant to these Regulations. [back](#)

[8] S.I. 1976/1221 to which there are amendments not relevant to these Regulations. [back](#)

[9] S.I. 1987/2237, to which there are amendments not relevant to these Regulations. [back](#)

[10] S.I. 1987/800, to which there are amendments not relevant to these Regulations. [back](#)

[11] OJ No. L26, 31.1.1977, p 85. The relevant amending instrument is Council Directive 88/658/EEC, OJ No. L382, 31.12.88, p 15. [back](#)

[12] OJ No. L 382, 31.12.88, p 15. [back](#)

[13] S.I. 1970/1172, the relevant amending instrument is the Food Safety Act 1990 (Consequential Modifications) (England and Wales) Order 1990 (S.I. 1990/2486). [back](#)

[14] 1984 c. 30. [back](#)